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नई दिल्ली, जुलाई 5—जुलाई 11, 2015, शनिवार/आषाढ़ 14—आषाढ़ 20, 1937

No. 28]

NEW DELHI, JULY 5—JULY 11, 2015, SATURDAY/ASADHA 14—ASADHA 20, 1937

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय
(कार्मिक और प्रशिक्षण विभाग)
नई दिल्ली, 2 जुलाई, 2015

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES
AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 2nd July, 2015

का० आ.1366.—केंद्रीय सरकार, एतद द्वारा दिल्ली विशेष पुलिस स्थापन अधिनियम, 1946 (1946 का अधिनियम सं० 25) की धारा 6 के साथ पठित धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उत्तर प्रदेश राज्य सरकार, गृह (पुलिस) अनुभाग-11, लखनऊ की सहमति से दिनांक 5 अगस्त, 2014 की अधिसूचना सं० 364 एम०एस०/6-पी-2014-543 एम/2013 के तहत हैरिटेज फाउंडेशन, ग्राम भादवार बाई पास रोड, वाराणसी (उत्तर प्रदेश) द्वारा भारत सरकार की पूर्वानुमति के बिना वर्ष 2006-07 से वर्ष 2011-12 की अवधि के दौरान 8.38 करोड़ (अनुमानित) की विदेशी सहायता प्राप्त कर विदेशी सहायता (विनियम) अधिनियम, 2010 (2010 के अधिनियम सं० 42) के विभिन्न प्रावधानों के उल्लंघन करने के संबंध में अन्वेषण करने के लिए तथा उपरोक्त अपराधों, प्रयासों, दुष्प्रेरणाओं, षड्यंत्रों अथवा उपरोक्त अपराधों तथा अन्य अपराध/अपराधों के संबंध में दिल्ली विशेष पुलिस स्थापन के सदस्यों की शक्तियों और न्यायाधिकार क्षेत्र का विस्तार संपूर्ण उत्तर प्रदेश राज्य पर करती है।

[फा. सं. 228/6/2015-एवीडी-II]
अजीत कुमार, अवर सचिव

S.O. 1366.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the Govt. of Uttar Pradesh, Grih (Police) Anubhag-11, Lucknow vide Notification No. 364M.S./6/P-2014-543M/2013 dated 5th August, 2014 hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Uttar Pradesh for investigation into the matter pertaining to violation of various provisions of Foreign Contribution (Regulation) Act, 2010 (Act No. 42 of the 2010) by Heritage Foundation, Village Bhadwar By Pass Road, Varanasi (Uttar Pradesh) by receiving foreign contribution of Rs. 8.38 Crore (appox) without prior permission of Government of India during the period from 2006-07 to 2011-12 and any other offence(s) attempts, abetments and conspiracies in relation to the above mentioned offences.

[F.No. 228/6/2015-AVD-II]
AJIT KUMAR, Under Secy.

नई दिल्ली, 4 जुलाई, 2015

का० आ० 1367.—केंद्रीय सरकार, एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं० 25) की धारा 6 के साथ पठित धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, महाराष्ट्र राज्य सरकार, की अधिसूचना सी० आर० सं० एमआईएस 2015/सी० आर० 1023/पीओएल-II दिनांक शून्य के माध्यम से प्राप्त सहमति से विदेशी अभिदाय (विनियमन) अधिनियम, 2010 (2010 का अधिनियम सं० 42) के अधीन गृह मंत्रालय संदर्भ सं० एफ० सं० II/21022/58(092)2015-एफसीआरए (एमयू) दिनांक 26.06.2015 (के०अ० ब्यूरो संदर्भ सं० 4476/सीए/413/2015/ईओयू-IX/एनडी) दिनांक 30.06.2015 में तथा उससे सम्बद्ध अपराधों में किए गए प्रयासों, दुष्प्रेरणाओं और षड्यंत्रों की जांच करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार समस्त महाराष्ट्र राज्य में करती है।

[फा० सं० 228/26/2015-ए०वी०डी०-II]
अजीत कुमार, अवर सचिव

New Delhi, the 4th July, 2015

S.O.1367.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Maharashtra *vide* Notification C.R. No. MIS 2015/C.R. 1023/Pol-11 dated nil, hereby extends the powers and Jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Maharashtra for investigation of MHA Reference No. F. No. II/21022/58(092) 2015-FCRA (MU) dated 26.06.2015 (CBI Reference No. 4476/CA/413/2015/EOU-IX/ND) dated 30.06.2015 under the Foreign Contribution (Regulation) Act, 2010 (Act No. 42 of

2010) and attempts, abetments and conspiracies in relation to the above mentioned offences.

[F.No. 228/26/2015-AVD-II]
AJIT KUMAR, Under Secy.

विदेश मंत्रालय

(सी०पी०वी० प्रभाग)

नई दिल्ली, 30 जून, 2015

का०आ० 1368.—राजनयिक तथा कौंसुलीय अधिकारी (शपथ और फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में केंद्र सरकार श्री पी० आर० सिंह, सहायक, को 30 जून, 2015 से भारत के कौंसुलावास, जेद्दाह में सहायक कौंसुलीय अधिकारी के कर्तव्यों का पालन करने के लिए प्राधिकृत करती है।

[सं० टी० 4330/01/2015]
प्रकाश चन्द, उप सचिव (कौंसुलर)

MINISTRY OF EXTERNAL AFFAIRS

(CPV Division)

New Delhi, the 30th June, 2015

S.O.1368.—In pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby authorize Shri P. R. Singh, Assistant, in Consulate General of India, Jeddah, to perform the duties of Assistant Consular Officer with effect from 30th June, 2015.

[No. T. 4330/01/2015]
PRAKASH CHAND, Dy. Secy. (Consular)

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

(भारतीय मानक ब्यूरो)

नई दिल्ली, 1 जुलाई, 2015

का०आ० 1369.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम 1988 के नियम 4 के उपनियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं:—

अनुसूची

क्र. सं.	लाइसेंस संख्या	स्वीकृत करने की तिथि वर्ष/माह	लाइसेंसधारी का नाम व पता	भारतीय मानक का शीर्षक	भा मा सं० (भाग/अनुभाग) : वर्ष
1	2	3	4	5	6
1.	6500005703	20150604	मैसर्स ए एण्ड डी इंजीनियरिंग एंटरप्रायसेस 159-6 सक्कराराजकरार सड़क, पाप्पमपट्टी पिरिवु, चिंतामणिपुदुर, कोयम्बतूर-641103	साफ, ठंडे पानी के लिए अपकेन्द्रीय पुनरुत्पादक पम्प	IS 8472 : 1998

1	2	3	4	5	6
2.	6500005598	20150604	मैसर्स कन्सपन एलॉय एण्ड स्टील कम्पनी प्रायवेट लिमिटेड एस एफ सं० 262, मेर्कुतोर्टम, करडिवावी रोड, अनुपट्टी पोस्ट, पल्लडम तालुक, तिरुप्पुर-641664	सामान्य संरचना इस्पात में पुनर्वेल्लन के लिए कॉर्बन, ढलवां इस्पात बिलेट इंगट, बिलेट, ब्लूम एवं स्लैब	IS 2830: 2012
3.	6500005699	20150611	मैसर्स श्री वासवी इंडस्ट्रीज 7/111A, नाणयमतोर्टम, वेट्टुपालयम, सोमन्नूर रोड, मंगलम पोस्ट, तिरुप्पुर	द्रवित पेट्रोलियम गैसों के साथ प्रयुक्त घरेलू गैस चूल्हे	IS 4246: 2002
4.	6500005804	20150615	मैसर्स वर्षा पॉली प्रोडक्ट्स एस एफ सं० 421/1, दरवाजा सं० 3/166-J, चिन्नियागौन्डमपालयम गांव, पन्क्कमपट्टी पोस्ट, पल्लडम तालुक, तिरुप्पुर-641664	पानी के भंडार हेतु प्लास्टिक टैंकियां	IS 12701: 1996
5.	6500005905	20150619	मैसर्स फाइनटेक पाइप प्रोडक्ट्स, 1/298-ए, पुलियमपट्टी मुख्य रोड, पोलवापालयम, नम्बियूर, गौबी-638458	पेयजल आपूर्ति के लिए उच्च घनत्व वाले पॉलीएथिलीन पाइप्स	IS 4984: 1995

[सं सी एम डी/13 : 11]

एम० सदाशिवम, वैज्ञानिक 'एफ' एवं प्रमुख

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION**(Department of Consumer Affairs)****(BUREAU OF INDIAN STANDARDS)**

New Delhi, 1st July, 2015

S.O. 1369.—In pursuance of sub-regulation (5) of the regulation 4 of the Bureau of Indian Standards (Certification) Regulation 1988, of the Bureau of Indian Standards, hereby notifies the grant of licences particular of which are given in the following schedule:

SCHEDULE

Sl. No.	Licence No.	Grant Date	Name & Address (Factory) of the Party	Title of the Standard	IS No. Part/ Sec. Year
1	2	3	4	5	6
1.	6500005703	20150604	M/s. A & D Engineering Enterprises 159-6, Sakkararaiakarar Street, Pappampatti Pirivu, Chinthamanipudur Coimbatore-641103	Centrifugal Regenerative Pumps for clear, cold water	IS 8472: 1998
2.	6500005598	20150604	M/s. Kannappan Alloy And Steel Company Pvt. Ltd. SF No. 262, Merkuthottam Karadivavi Road, Post Anupatti, Palladam Tk, Tiruppur-641664	Carbon Steel Cast Billet Ingots, Billets, Blooms and Slabs for re-rolling into Steel for general Structural purposes	IS 2830: 2012
3.	6500005699	20150611	M/s. Sri Vasavi Industries 7/111A, Nanayamthottam, Vettupalayam, Somanur Road, Mangalam Post, Tiruppur	Domestic Gas Stoves for use with Liquefied Petroleum Gases	IS 4246: 2002

1	2	3	4	5	6
4.	6500005804	20150615	M/s Varasha Poly Products, SF No. 421/1, Door No. 3/166-J, Chinniya Goundampalayam Village, Panickampatti Post, Palladam Taluk, Tiruppur-641664	Rotational Moulded Polyethylene Water Storage Tanks	IS 12701:1996
5.	6500005905	20150619	M/s. Finetech Pipe Products 1/298-A, Puliampatti Main Road, Polavapalayam, Nambiyur, Gobl-638458	High Density Polyethylene Pipes for potable water supplies	IS 4984: 1995

[No. CMD/13 : 11]

M. SADASIVAM, Scientist 'F' & Head

नई दिल्ली, 1 जुलाई, 2015

का.आ. 1370.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम 1988 के विनियमन 5 के उपविनियमन (6) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि निम्न विवरण वाले लाइसेंसों को उनके आगे दर्शाई गई तारीख से रद्द/स्थगित कर दिया गया है:—

अनुसूची

क्र. सं.	लाइसेंस सीएम/एल	लाइसेंसधारी का नाम व पता	स्थगित किए गए/रद्द किए गए लाइसेंस के अंतर्गत वस्तु/प्रक्रम सम्बद्ध भारतीय मानक का शीर्षक	रद्द होने की तिथि
1.	6500000487	मैसर्स वेलवन एक्वा फार्म्स सं० 285/2 AI, पेरुपल्लम बस अड्डे के पास, चिन्नापल्लम पोस्ट, नेरिन्जीपेट्टै, ईरोड-638311	पैकेजबंद पेय जल (पैकेजबंद मिनरलजल के अलावा) IS 14543: 2004	02.06.2015

[सं० सी एम डी/13 : 13]

एम० सदाशिवम, वैज्ञानिक 'एफ' एवं प्रमुख

New Delhi, the 1st July, 2015

S.O. 1370.—In pursuance of sub-regulation (6) of the regulation 5 of the Bureau of Indian Standards (Certification) Regulations 1988, of the Bureau of Indian Standards, hereby notifies that the licence particulars of which are given below have been cancelled/suspended with effect from the date indicated against each:

SCHEDULE

Sl. No.	Licences No. CM/L-	Name and Address of the Licensee	Article/Process with relevant Indian Standard covered by the licence cancelled/suspension	Date of Cancellation
1.	6500000487	M/s. Velavan Aqua Farms, No. 285/2AI, Near Perumpallam Bus Stop, Chinnapallam (P.O.), Nerinjipetto, Erode-638311	Packaged Drinking Water (other than Packaged Natural Mineral Water) IS 14543: 2004	02.06.2015

[No. CMD/13 : 13]

M. SADASIVAM, Scientist 'F' & Head

**रसायन और उर्वरक मंत्रालय
(रसायन एवं पेट्रोसायन विभाग)**

नई दिल्ली, 29 जून, 2015

का०आ.1371.—केन्द्रीय सरकार राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में, रसायन और उर्वरक मंत्रालय, रसायन एवं पेट्रोसायन विभाग के नियंत्रणाधीन “क” क्षेत्र में स्थित सिपेट, जयपुर जिसके 80 प्रतिशत कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है।

[सं० ई-11019/01/2015-हिन्दी]

गुलशन लाल चोपड़ा, संयुक्त निदेशक (राजभाषा)

**MINISTRY OF CHEMICALS AND FERTILIZERS
(Department of Chemicals and Petrochemicals)**

New Delhi, the 29th June, 2015

S.O. 1371.—Hindi in pursuance of Sub-rule (4) of Rule 10 of the Official Language (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notify CIPET, Jaipur Unit, which is located in region A under the administrative control of Ministry of Chemicals and Fertilizers, Department of Chemicals & Petrochemicals, whereas the 80% staff have acquired the working knowledge of Hindi.

[No. E-11019/01/2015-Hindi]

GULSHAN LAL CHOPRA, Jt. Director (OL)

**संचार मंत्रालय
(डाक विभाग)**

कालिकट, 6 जुलाई, 2015

का०आ० 1372.—केन्द्रीय सरकार के विभागीय जांच (साक्षी उपस्थिति प्रवर्तन एवं दस्तावेजों का प्रस्तुतीकरण) अधिनियम, 1972 (1972 के 18) के तहत खण्ड 4 की उपखण्ड (2) द्वारा प्रदत्त अधिकारों के प्रयोग से यह विनिर्दिष्ट किया जाता है कि श्री पी. सी. सजीवन, सहायक अधीक्षक डाकघर, तलिपरंबा उपमंडल, तलिपरंबा-670141, श्री पी०टी० जार्ज, ग्रामीण डाक सेवक एमडी, अरिविलंजपोयिल-670571 के विरुद्ध विभागीय जांच में उपर्युक्त अधिनियम के खण्ड 4 के उपखण्ड (1) के तहत भारत सरकार द्वारा दिये गए अधिकारों का प्रयोग करने हेतु सक्षम प्राधिकारी हैं।

[सं० आईएनवी/3-7/11-12]

कर्नल.वि.रामुलु, पोस्टमास्टर जनरल

**MINISTRY OF COMMUNICATIONS
(Department of Posts)**

Calicut, the 6th July, 2015

S.O. 1372.—In exercise of powers conferred by sub-section (2) of Section 4 of the Departmental inquiries (Enforcement of Attendance of Witnesses and Production of Documents) Act 1972 (18 of 1972), the Central Government hereby specifies Shri P.C. Sajeewan, Assistant

Superintendent of Post Offices, Taliparamba Sub Division, Taliparamba-670141 as an authority to exercise the power conferred on the Central Government by Sub-section (1) of Section 4 of the said Act in respect of Shri P.T. George, GDSMD, Arivailanjapoyil-670571 against whom a departmental inquiry may be held.

[No. Inv/3-7/11-12]

Col. V. RAMULU, Postmaster General

**स्वास्थ्य एवं परिवार कल्याण मंत्रालय
शुद्धिपत्र**

नई दिल्ली, 24 जून, 2015

का०आ० 1373.—भारत सरकार, स्वास्थ्य एवं परिवार कल्याण मंत्रालय की दिनांक 07 मई, 2015 की समसंख्यक अधिसूचना, जिसमें आईएमसी अधिनियम, 1956 की धारा 3 (1) (ख) के तहत बाबा फरीद स्वास्थ्य विज्ञान विश्वविद्यालय का प्रतिनिधित्व करने वाले भारतीय आयुर्विज्ञान परिषद् के सदस्य के रूप में प्रो० डॉ० राज बहादुर, कुलपति, बाबा फरीद स्वास्थ्य विज्ञान विश्वविद्यालय, फरीदकोट, पंजाब के नाम को अधिसूचित किया गया है, के कॉलम क्र० सं० में की गई प्रविष्टि को “44” की बजाय “8” पढ़ा जाए। अधिसूचना की अन्य प्रविष्टियां समान रहेंगी।

[सं० वी० 11013/02/2015-एमईपी-1]

अमित बिस्वास, अवर सचिव

**MINISTRY OF HEALTH AND FAMILY WELFARE
CORRIGENDUM**

New Delhi, the 24th June, 2015

S.O. 1373.—In the Government of India, Ministry of Health & Family Welfare Notification of even No. dated 07th May, 2015, notifying the name of Prof. Dr. Raj Bahadur, Vice Chancellor, Baba Farid University of Health Sciences, Faridkot, Punjab as Member, Medical Council of India representative of Baba Farid University of Health Sciences under section 3 (1) (b) of IMC Act, 1956, the entry at the Column S.No. may be read as “8” instead of “44”. The other entries of the Notification will remain the same.

[No. V. 11013/02/2015-MEP-1]

AMIT BISWAS, Under Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 1 जुलाई, 2015

का०आ० 1374.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ई०सी०एल० के प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 53/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 01/07/2015 को प्राप्त हुआ था।

[सं० एल-22012/351/2003-आईआर (सीएम-II)]

मो० जाहिद शरीफ, अनुभाग अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 1st July, 2015

S.O. 1374.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 53/2004) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the industrial dispute between the management of Parascole Colliery, M/s Eastern Coalfield Ltd., and their workmen, received by the Central Government on 01/07/2015.

[No. L-22012/351/2003-IR(CM-II)]
MD. ZAHID SHARIF, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL**

Present: Shri Pramod Kumar Mishra,
Presiding Officer

REFERENCE NO. 53 OF 2004

PARTIES: The management of Parascole Colliery, Kajoa
Area of M/s ECL

Vs.

Sri Mantu Raidas

REPRESENTATIVES:

For the management: Sri P.K. Das, Ld. Adv. ECL

For the union (Workman): Sri Rakesh Kumar, President,
KMC

Industry: Coal State: West Bengal

Dated: 04.06.2015

AWARD

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/351/2003-IR(CM-II) dated 04.10.2004 has been pleased to refer the following dispute the adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of Parascole Colliery, under Kajora Area of M/s. Eastern Coalfields Limited in dismissing Sh. Mantu Raidas, U.G.L., U.M. No. 722356 from service w.e.f. 06.05.2000 is legal and justified? if not, to what benefit he is entitled?"

Having received the Order No. L-22012/351/2003-IR(CM-II) dated 04.10.2004 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 53 of 2004 was registered on 14.10.2004 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the

said order notices by the registered post were sent to the parties concerned.

Case called out. Both parties; Sri P.K. Das, Ld. Advocate for the management and Sri Rakesh Kumar, President of the Union (Koyla Mazdoor Congress) for the workman/union are present.

Sri. P.K. Das, files a letter of Parascole Colliery, ECL bearing No. PSC/P&IR/C-6/14/1023 dated 11/13.09.2014 stating therein that the workman has already been reinstated. Sri Rakesh Kumar also submits that the case may be closed as the workman has joined in service. Since the workman has already joined the service no dispute exist between the concern parties. As such the case is closed and accordingly a "No Dispute Award" may be passed.

ORDER

Let an "Award" be and same is passed as no dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi, for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 1 जुलाई, 2015

का०आ० 1375.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ई०सी०एल० के प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 43/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 01/07/2015 को प्राप्त हुआ था।

[सं० एल-22012/310/2003-आईआर (सीएम-II)]

मो० जाहिर शरीफ, अनुभाग अधिकारी

New Delhi, the 1st July, 2015

S.O. 1375.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 43/2004) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the industrial dispute between the management of Nutundanga Colliery, Pandaveshwar Area, M/s E.C.L. and their workman, received by the Central Government on 01/07/2015.

[No. L-22012/310/2003-IR(CM-II)]
MD. ZAHID SHARIF, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL**

PRESENT: Sri Pramod Kumar Mishra,
Presiding Officer

REFERENCE NO. 43 OF 2004

PARTIES: The management of
Nutandanga Colliery of M/s
ECL

Vs.

Sri Ranjit Kumar Chandra

REPRESENTATIVES:

For the management: Sri P.K. Das, Ld. Adv. ECL

For the union (Workman): None

Industrial: Coal State: West Bengal

Dated 09.06.2015

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/310/2003-IR(CM-II) dated 30.06.2004 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the action of the management of Nutandanga Colliery under Pandevshwar Area of M/s. Eastern Coalfields Limited in denying voluntary retirement on medical grounds to Sri Ranjit Kumar Chandra, Sirdar under Clause 9.4.0 of NCWA-IV is legal and justified? If not, to what benefit he is entitled?"

Having received the Order No. L-22012/310/2003-IR(CM-II) dated 30.06.2004 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute a reference case No. 43 of 2004 was registered on 12.07.2004 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

Case called out. Both of the parties; management as well as union/workman are absent.

On perusal of case record I find that agent of Nutandanga Colliery has filed a petition before the Tribunal stating therein that workman has already joined in service. Copy of appointment letter has also been enclosed with the petition. The union is also neither appearing nor taking any step since long in spite of service of several notices.

Since the workman has already joined in service and the workman is neither appearing nor taking any step, the case

is closed. As such the case is closed and accordingly a "No Dispute Award" may be passed.

ORDER

Let an "Award" be and same is passed as no dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi, for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 1 जुलाई, 2015

कांआ 1376.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बी०सी०सी०एल० के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 36/2002) को प्रकाशित करती है जो केन्द्रीय सरकार को 01/07/2015 को प्राप्त हुआ था।

[सं० एल-22012/176/2001-आई.आर. (सीएम-II)]

मो० जाहिद शरीफ, अनुभाग अधिकारी

New Delhi, the 1st July, 2015

S.O. 1376.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. 36/2002 of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the industrial dispute between the management of C.V. Area of M/s. BCCL, and their workman, received by the Central Government on 01/07/2015.

[No. L-22012/176/2001-IR(CM-II)]

MD. ZAHID SHARIF, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
ASANSOL**

PRESENT: Sri Pramod Kumar Mishra,
Presiding Officer

REFERENCE NO. 36 OF 2002

PARTIES: The management of Victoria West Colliery of
M/s BCCL

Vs.

Sri Baban Dusadh & 3 others

REPRESENTATIVES:

For the management: Sri P.K. Das, Ld. Adv.

For the union (Workman): None

Industrial: Coal State: West Bengal
Dated 26.05.2015

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/176/2001-IR(CM-II) dated 27.08.2002 has been pleased to refer the following dispute for adjudication by the Tribunal.

SCHEDULE

"Whether the action of the management of Victoria West Colliery under BCCL C.V. Area-XII in denying conversion of Baban Dusadh, Seobali Dusad, Bijay Shaw and Lukman Mia (all U.G. Loaders of Victoria West Colliery) from U.G. Loader to Trammer is legal and justified? If not, to what relief the concerned workmen are entitled?"

Having received the Order No. L-22012/176/2001-IR(CM-II) dated 27.08.2002 of the above said reference from the Govt. of India, Ministry of Labour New Delhi for adjudication of the dispute a reference case No. 36 of 2002 was registered on 10.09.2002 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

Case called out both parties management as well as union/workman are absent.

On perusal of case record I find that this reference case was fixed for hearing on merit on 30.08.2005. But the union appeared only on 28.02.2006 when management was absent. Thereafter the union never appeared not took any step. After granting 15 days registered notice was issued to the union on 30.03.2009. But none on behalf of the union turned up. Again registered notice was issued on 10.09.2014 and 3 dates were granted but all in vain. The union neither appeared nor took any step after 28.02.2006 despite two registered notices. It seems to me that the union is now not at all interested to proceed with the case further. The reference case is also too old—in the year of 2002. So I don't think it proper and wise to keep this old record pending while the workmen have no more interest left. As such the case is closed and accordingly a "No Dispute Award" may be passed.

ORDER

Let an "Award" be and same is passed as no dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi, for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 1 जुलाई, 2015

का०आ० 1377.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एसईसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 342/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01/07/2015 को प्राप्त हुआ था।

[सं० एल-22012/244/1999-आईआर (सीएम-II)]

मो० जाहिर शरीफ, अनुभाग अधिकारी

New Delhi, the 1st July, 2015

S.O. 1377.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 342/99) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of Rajnagar Colliery of SECL, and their workmen, received by the Central Government on 01/07/2015.

[No. L-22012/244/1999-IR(CM-II)]

MD. ZAHID SHARIF, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT, JABALPUR**

NO. CGIT/LC/R/342/99

Joint General Secretary,
Rashtriya Colliery Workers Federation,
At & PO Rajnagar Colliery of SECL,
Distt. Surguja (MP) ...Workman/Union

Versus

The Sub Area Manager,
Rajnagar R.O of SECL,
PO Rajnagar Colliery,
Distt. Shahdol ...Management

AWARD

Passed on this 5th day of June 2015

1. As per letter dated 19-20/10/99 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per notification No. L-22012/244/99/IR(CM-II). The dispute under reference relates to:

"Whether the action of the management of the Mines Manager, Rajnagar RO Colliery, Incline No.5-6, Hasdeo Area of SECL, Distt. Shahdol in terminating Shri Ram Khelawan S/o Shri Hirwa, General Mazdoor, Rajnagar RO Colliery w.e.f. 16-5-97 from company

services is legal and justified? If not, to what relief the concerned workman is entitled?' (ii)

Whether the punishment of dismissal imposed against workman is proper and legal? In Negative

2. After receiving reference, notices were issued to the parties. Ist party workman filed statement of claim at Page 5/1 to 5/3. Case of workman is that he was working in colliery of IInd party. Chargesheet was issued to him on 25-10-96. He denied charges against him. Management instituted enquiry and ultimately terminated his services from 12-5-97. Workman challenged order of his termination alleging that charges alleged against him were vague. The Enquiry Officer was biased. He acted as a prosecutor rather than judge. Management closed evidence. Thereafter Enquiry Officer directed management to produce more evidence to fill up the lacunas. Findings of Enquiry Officer are perverse. Enquiry Officer had not applied mind for recording his findings. The punishment of dismissal is harsh. On such ground, workman prays for reinstatement with consequential benefits.

3. IInd party filed Written Statement at Page 6/1 to 6/2 opposing claim of the workman. IInd party denied material allegations of workman. It is submitted that charges alleged against workman were precise followed by complaint by supervisor of the workman Jahuruddin, Mining Sirdar dated 25-10-96. The contentions of workman w.r.t. charges were vague. Enquiry Officer acted as a prosecutor. It is submitted that Enquiry Officer recorded findings considering evidence on record. The findings are not perverse. The punishment of dismissal was imposed against workman considering the allegation that workman had denied to perform his duty. He had disobeyed orders of his superior. Workman was in habit of misbehaving with his superiors. Enquiry was conducted fairly. The witnesses of management were cross-examined by co-worker. On such ground, IInd party submits that workman has not made out sufficient ground for his claim.

4. Workman submitted rejoinder at Page 7/1 to 7/2 reiterating his contentions in statement of claim. That the findings of enquiry Officer are contrary to the record. The principles of natural justice were not followed by Enquiry Officer. He acted as a prosecutor. The charges alleged against workman were false.

5. Preliminary issue was framed in the matter, as per order dated 15-2-2011, my predecessor found enquiry conducted against workman legal and valid.

6. Considering pleadings on record and orders on preliminary issue, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

(i) Whether the charges alleged against workman are proved from evidence in Enquiry proceedings? In Affirmative

If not, what relief the workman is entitled to?" As per final order

REASONS

7. As stated above, vide order dated 15-2-2011, enquiry conducted against workman is found legal. Next question for consideration is whether charges alleged against workman are proved from evidence in Enquiry Proceedings or findings of Enquiry Officer are perverse. The documents Exhibit M-1 is chargesheet issued to workman under Clause 26.3, 46.5, 26.22 of standing orders which relates to disobeying orders of the superiors and deliberately not cooperating with the superiors causing indiscipline and loss to the management. The report by complainant Jahuruddin is produced in record of Exhibit M-1. Management examined witness Shri Anup Shriya Prasad witness No. 1, complainant Jahuruddin Mining Sirdar, Anwar Ali, Lalji S/o Jhakuruddin witness No. 4 Tiwari, Naveen Deep Witness No. 5. All the witnesses were cross-examined by Defence Assistant. The workman examined defence witness Shri Sham Baghel, Witness No. 2 Abimanyu, Witness No. 3 Kamla, witness No. 4 Rampal Tamar, workman examined himself. The evidence of management's witnesses is clear that workman had left the place of working. Complainant Jahuruddin had gone for his search, workman was found near Kali Temple talking with 2-3 other persons. When workman asked him about the same, workman replied in indecent language. He also abused workman indecently. Workman had left place of work earlier, workman was one of the member of group of 8 labours who were assigned work of spreading belt. Jahuruddin in his statement says that when he had gone for search of workman, he was found near Kali temple. On his enquiry, workman said what harm he may do to him. While returning to his place of work, workman said he would not obey his orders. His evidence is corroborated by management witness Anushriya Prasad. His statement is clear that the work of spreading belt for loading in the mines was assigned to their group. Workman Ramkhilawan had left place of work. Sirdar had gone for his search. Remaining labours had started work of spreading belt. As belt was more, belt could not be taken down. His evidence is corroborated by management Witness Lalji S/o Hasuruddin. Witness No. 3 for management says that they were assigned work in group of 8 persons. Belt was to be taken at 200 mt distance. Workman Ramkhilawan had gone out of boundary. Sirdar had gone to call him. Ramkhilawan and one Kamla were not present therefore the belt could not be taken loose upto the trolley. Management's witness Tiwari corroborated evidence of their witnesses and MW-5 Naveen have also corroborated their evidence. The evidence in cross-examination of all those witnesses is not shattered evidence

on the point workman had left the working place and he disobeyed order of his superior. The defence witness No. 1 to 4 tried to support defence of the workman. That the work was completed. I find no evidence shattering the testimony of management's witness to disbelieve them. The scope of judicial scrutiny by the Tribunal does not permit re-appreciation of evidence. The findings of Enquiry Officer are supported by the evidence. Enquiry Officer while recording his findings has not marshelled the evidence. The marshelling of evidence by Enquiry Officer is not expected as he is not a person from legal field. The evidence in Enquiry Proceedings is sufficient to prove charges alleged against workman. The findings of Enquiry officer cannot be said perverse. For above reasons, I record my finding in Point No. 1 in Affirmative.

8. Point No. 2—in view of my finding in Point No. 1 charges alleged against workman, disobeying orders of his superiors, not maintaining discipline, leaving the place of work are proved, question is whether the punishment of dismissal imposed against workman for the charges proved against him is proper. Though learned counsel for IInd party Shri A.K. Shashi submits that workman was habitually disobeying the orders of his superiors, no evidence is found in that regard. There was no charge against workman of habitual disobeying the orders of his superiors. The evidence of management's witnesses shows that the incident occurred on 24-10-98 when the group of labours were assigned work of spreading belt. The workman left the place and when Sirdar Jahuruddin went to call the workman, the workman abused him and told that he would not obey the jobs. The incident occurred on 24-10-96.

9. As per evidence of Ist party workman, he was working in Rajnagar colliery from 1-9-79. Workman is dismissed as per order dated 16-5-97. Workman was working with IInd party from 1979 to 1997 for about 18 years. While imposing punishment of dismissal, length of his service was not considered. There was no charge of workman habitually disobeying orders of his superiors when no evidence was adduced before Enquiry officer about past service record of workman.

10. Learned counsel for workman Shri R.C. Shrivastva submits considering isolated incident of leaving working place, disobeying order of mining Sirdar, the punishment of with-holding some increments would have been appropriate. The punishment of dismissal imposed against workman is disproportionate and harsh.

11. Considering the facts and evidence of the case, I am of the view that for single incident of disobeying order of Mining Sirdar, punishment of dismissal of workman who had completed almost 18 years service is disproportionate and excessive. The punishment was imposed in 1997. At the time of evidence of workman adduced evidence in the case on 14-9-2011, age of workman is shown 52 years. By

this time, workman may have completed age of 55-56 years. As the punishment of dismissal is found disproportionate, in my considered view, considering proved charges against workman, the punishment of compulsory retirement would be appropriate. Accordingly I record my finding in Point No. 1.

12. In the result, award is passed as under;—

- (1) The action of the management of the Mines Manager, Rajnagar RO Colliery of SECL, Distt. Shahdol in terminating Shri Ram Khelawan S/o Shri Hirwa, w.e.f. 16-5-97 is not proper and legal.
- (2) Punishment of dismissal of workman from service is modified to compulsory retirement. IInd party is directed to allow retiral benefits to workman within two months from the date of publication of award.

R.B. PATLE, Presiding Officer

नई दिल्ली, 1 जुलाई, 2015

का०आ० 1378.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार खादी एवं ग्रामोद्योग आयोग के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 120/2001) को प्रकाशित करती है जो केन्द्रीय सरकार को 01/07/2015 को प्राप्त हुआ था।

[सं० एल-42012/51/2000-आई आर (सी-II)]

मो० जाहिद शरीफ, अनुभाग अधिकारी

New Delhi, the 1st July, 2015

S.O..1378.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 120/01) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of Khadi and Village Industries Commission, Bhopal, and their workmen, received by the Central Government on 01/07/2015.

[No. L-42012/51/2000-IR(C-II)]

MD. ZAHID SHARIF, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

CASE No. CGIT/LC/R/120/01

Ms. Prabhavati

C/o Ramanand Dhyani,

CSD & Workshop, Bhadbadha Road,

Bhopal

....Workman

Versus

Director,
Khadi and Village Industries Commission,
B-3/4, Office Complex,
Gautam Nagar,
Bhopal.

Manager,
Khadi Gramodyog Bhawan,
27, Bhadbhada Road,
TT Nagar, Bhopal.

...Management

AWARD

Passed on this 17th day of June 2015

1. As per letter dated 22-6-01 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-42012/51/2000-IR (C-II). The dispute under reference relates to:

"Whether the action of the management of Director, Khadi and Village Industries Commission, Bhopal in terminating the services of Ms Prabhavati C/o Ramanand Dhyani w.e.f. 31-1-2000 not complying with Section 25 F of ID Act 1947 is legal and justified? If not, to what relief she is entitled to?"

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at Page 2/1 to 2/4. Case of workman is that she was appointed in General Cadre without giving order in writing from 1-1-1996. She was allowed employment for doing various nature of work. She was working as peon, clerk time to time as work assigned by management. She was attending office every day from 11 AM to 8 PM. That she was continuously working till her discontinuation on 30-1-2000. That she was not given termination order. The termination of services by oral order is illegal. Her services were terminated by IInd party after demand for regularization and payment of equal wages for equal work. instead of regularizing her services, he was discontinued. That she completed 240 days continuous service. She is entitled to protection of ID Act. She was continuously working for about 4 years. Her services are terminated in violation of Section 25-F of ID Act. On such ground, workman is praying for reinstatement with full backwages.

3. IInd party filed written Statement at page 10/1 to 10/4 opposing claim of the workman. IInd party denied that workman was appointed without order in writing by IInd party. That IInd party has no power to appoint employees. IInd party is establishment under control of Government of India. Appointment in IInd party are made by Central Government. Workman is not terminated by IInd party neither she was appointed by it. IInd party had engaged Tiger Security Services. IInd party has no concern with

engagement or termination of services of workman. There was no question of continuously employing workman by IInd party. Workman had not completed 240 days continuous service. Violation of Section 25-F of ID Act by IInd party is denied the conditions of services of workman were settled between her and Tiger Security Services. Claim of workman is not legal and same cannot be accepted.

4. Workman has submitted rejoinder at Page 11/1 to 11/4 reiterating her contentions in statement of claim. She denied that she was working as employee of Tiger Security services. She was never appointed as Security Guard. During the year 1994-95, workman was engaged on daily wages. From 1-1-1996, he was appointed without issuing order. IInd party has produced fabricated documents as females are never employed as security guard, mostly males are employed as security guard. She has reiterated that during the year 1996 to 2000, she worked for 215 days during each of the year. Her services are terminated orally in violation of Section 25-F of ID Act.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | | |
|------|---|---------------------|
| (i) | Whether the action of the management of Director, Khadi and Village Industries Commission, Bhopal in terminating the services of Ms Prabhavati C/o Ramanand Dhyani w.e.f. 31-1-2000 is legal? | In Negative |
| (ii) | If not, what relief the workman is entitled to?" | As per final order. |

REASONS

6. Point No. 1 Workman is challenging termination of service for violation of Section 25-F of ID Act contending that she was continuously working in IInd party from 1996 to 2000. She has filed affidavit of her evidence supporting above contentions that her services were orally terminated. Notice was not issued to her. She was not employed by tiger Security Services. Documents produced by IInd party are bogus and fabricated. In her cross-examination, workman says during 1994-95, she was working as LDC in IInd party. Shri N.V. Singh Manager had appointed her. Order in writing was issued to her. She admits that IInd party is institution of Central Government, the appointments are made by Central Govt. she did not receive letter of appointment from the Central Government. Workman further says that she was daily wage employee. Manager had appointed her as LDC. Manager had told her that on post of LDC, she would be required to work on computer, accounts. During the period she was working with IInd party on computer there was no other person

working on computer. Other persons were working in accounts. Manager had issued certificate that she worked more than 240 days. Initially she was paid Rs. 45/- per day. Subsequently she was paid Rs. 1500 p.m. The evidence of workman that she was not employee of Tiger Security services is not shattered. Workman has denied suggestion in that regard.

7. Management filed affidavit of witness Meena supporting contentions of the management that workman was employee of Tiger security services. Said security services is deliberately not impleaded as party. Workman failed to cross examine the management's witnesses. Even after the order dated 13-4-14 was recalled, workman failed to cross-examine the management's witness. However, the management's witness has failed to prove the documents of security contract with Tiger Security Services. The evidence of management's witness is not cogent that workman was employed by Tiger Security services. Management has not produced documents about registration of its establishment under CL(R&A) Act. The contentions of IInd party that workman was employee of IInd party is not reliable. Ist party being lady is difficult to believe that she was engaged as security guard by Tiger Security Services. The evidence of workman is not shattered that she was working on computer and also doing accounts work from 1-1-96 till 2000. Her services were discontinued orally. Workman was not served with notice, retrenchment compensation was not paid therefore termination of services of workman is illegal for violation of Section 25-F of ID Act. Therefore I record my finding in Point No. 1 in Negative.

8. Point No. 2 — The services of workman are terminated in violation of Section 25-F of ID Act as per my finding in Point No. 1, question arises whether the workman is entitled for reinstatement with back wages. Cross examination of workman shows she was not appointed by Central Government. Her evidence does not show that she was appointed following any kind of recruitment process. In absence of such evidence, claim of workman for reinstatement cannot be allowed. Considering the workman was working for 4 years with IInd party, compensation Rs. One Lakh would be appropriate. Accordingly I record my finding in Point No. 2.

9. In the result award is passed as under:—

- (1) The action of the management of Director, Khadi and Village Industries Commission, Bhopal in terminating the services of Ms Prabhavati C/o Ramanand Dhyani w.e.f. 31-1-2000 is not proper and legal.
- (2) IInd party is directed to pay compensation Rs. One Lakh to the workman within 30 days from the date of notification of award.

In case of default, amount shall carry 9% interest per annum from the date of award till its realization.

R.B. PATLE, Presiding Officer

नई दिल्ली, 1 जुलाई, 2015

का०आ० 1379.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एसईसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 186/96) को प्रकाशित करती है जो केन्द्रीय सरकार को 01/07/2015 को प्राप्त हुआ था।

[सं० एल-22012/210/1994-आई आर (सी-II)]

मो० जाह्द शरीफ, अनुभाग अधिकारी

New Delhi, the 1st July, 2015

S.O.1379.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 186/96) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of Jamuna & Kotma Area of SECL, and their workmen, received by the Central Government on 01/07/2015.

[No. L-22012/210/1994-IR(C-II)]

MD. ZAHID SHARIF, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

CASE No. CGIT/LC/R/186/96

Secretary,
Koyla Mazdoor Sabha,
Camp Lusai,
Post Kotma,
Distt. Shahdol (MP)

....Workman/Union

Versus

General Manager,
Jamuna & Kotma Area,
SECL, Post Jamuna Colliery,
Distt. Shahdol (MP)

....Management

AWARD

Passed on this 8th day of June 2015

As per letter dated 26-9-96 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-22012/210/94-IR (C-II). The dispute under reference relates to:

"Whether the action of the management of Jamuna 1/2 mines of Jamuna and Kotma Aras of SECL in

dismissing the services of Shri Nain Das S/o Chmu Das, Badli Piece Rated Loader is legal and justified? If not, to what relief the workman concerned is entitled to?"

2. After receiving reference, notices were issued to the parties. Ist party Union submitted statement of claim at Page 3/1 to 3/5. Case of Union is that Naindas was working as permanent workman in Jamuna 1, 2 mines in Kotma Area of SECL. Said workman was working against permanent vacancy. He had put up more than 240 days attendance in each of the calendar year. Workman was discharging his duties under direct control and supervision of management to its satisfaction. Management provide proper medical facilities to said workman. He suffered from disease of TB. Above said workman reported to company's Medical Officer any time for treatment. Unfortunately workman was not provided proper treatment. Workman would not recover from his killing disease. Workman was receiving treatment from Doctor under supervision of his relatives as well as well-wishers. Workman was absenting from duty, his absence was informed to the management. That as per clause 17.1 of certified standing orders, management issued letter dated 31-1-1984 terminating his services. It is submitted that the termination of services of workman is illegal contrary to the standing orders. Any charge sheet was not issued to the workman. No enquiry was conducted against him. Clause 17-N of Certified standing order restricts to terminate services of workman without assigning reason, without according any opportunity. The dispute raised by Union was rejected by Government. After directions issued by Hon'ble High Court in Writ Petition, the dispute has been referred. Union submits that the services of workman are terminated in violation of Section 25-F of ID Act. Union claims for reinstatement of workmen with all consequential benefits.

3. Better particulars were applied by IInd party management. Union submitted better particulars that workman was appointed in service by management in 1975. Workman was working till 1983. He completed 240 days continuous service during each of the year. Workman was suffering from TB consequently absenting from work. Workman is illiterate person. Workman has forgotten the name of supervisor under whom he was working. Workman was terminated from 3-1-84.

4. IInd party filed Written Statement at Page 12/1 to 12/7 opposing claim of the workman. IInd party raised preliminary objection that workman was engaged as casual mazdoor as badly/piece rated loader. Workman remained absent unauthorisely without intimation or sanctioned leave. Workman was absenting from 22-9-83. His casual engagement came to end *vide* order dated 31-1-1984. The dispute raised by workman was rejected by Government. In para-6 of the Written Statement, IInd party has shown working days of workman from 1982 to 1984. It is reiterated

that as workman was engaged as casual badly mazdoor and he unauthorisely remained absent, workman had not completed 190/240 days attendance during any of the year. Workman left his job. If it is found that enquiry was required before terminating services of workman, IInd party request permission to prove misconduct in court. On such ground, IInd party prays that reference be awarded in its favour.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | | |
|------|---|--|
| (i) | Whether the action of the management of Jamuna 1/2 mines of Jamuna and Kotma Areas of SECL in dismissing the services of Shri Nain Das S/o Chmu Das, Badli Piece Rated Loader is legal and justified? | In Affirmative |
| (ii) | If not, what relief the workman is entitled to?" | Workman is not entitled to any relief. |

REASONS

6. Present dispute is raised by Union Koyla Mazdoor Sabha challenging termination of services of workman for violation of Section 25-F of ID Act. However Union or workman failed to participate in the reference proceedings. Workman failed to adduce evidence in support of contentions raised in statement of claim. Despite of notices issued to workman on 30-1-2014, he failed to adduce any evidence, evidence of workman is closed on 20-3-2014. The documents produced on the record Exhibit W-1 is copy of Writ Petition filed in High Court. Only after directions issued by Hon'ble High Court, dispute was referred by the Central Government. Exhibit W-2 is copy of termination order dated 31-1-1984. W-3 is order by Government rejecting to make reference. Exhibit W-4 is copy of WP No. 3301/96 filed in High Court.

7. Management has also produced document Exhibit M-1 copy of termination order, M-2 reply submitted before ALC, Shahdol. M-3 is copy of failure report submitted by ALC, Shahdol. M-4 is copy of order of reference. M-5 is copy of entries in Attendance Register.

8. Management's witness Shri P.S. Mundre filed affidavit of evidence supporting contentions in Written Statement filed by IInd party that workman had not completed 240 days continuous service during any of the year. Evidence of management's witness remained unchallenged as Ist party workman failed to cross-examine witness of the management. As Ist party failed to adduce any evidence in support of his contentions, I record my findings in Point No. 1 in Affirmative.

9. In the result, award is passed as under:—

- (1) The action of the management of Jamuna 1/2 mines of Jamuna and Kotma Aras of SECL in dismissing the services of Shri Nain Das S/o Chmu Das, Badli Piece Rated Loader is proper.
- (2) Workman is not entitled to any relief.

R.B. PATLE, Presiding Officer

नई दिल्ली, 1 जुलाई, 2015

कांआ 1380.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ए०एस०आई० के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 58/2006) को प्रकाशित करती है जो केन्द्रीय सरकार को 01/07/2015 को प्राप्त हुआ था।

[सं० एल-42012/199/2005-आईआर(सीएम-II)]

मो० जाहिद शरीफ, अनुभाग अधिकारी

New Delhi, the 1st July, 2015

S.O. 1380.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 58/06) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of Archaeological Survey of India and their workman, received by the Central Government on 01/07/2015.

[No. L-42012/199/2005-IR(CM-II)]

MD. ZAHID SHARIF, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/58/06

General Secretary,
All India Archaeological Survey Mazdoor Union,
43/305/18, Nai Awadi,
Near Mission Church,
Sikandara, Agra (UP)Workman/Union

Versus

Superintending Archaeologist,
Archaeological Survey of India,
GTB Complex, B Block
IInd floor,
BhopalManagement

AWARD

Passed on this 15th day of June, 2015

1. As per letter dated 7.9.06 by the Government of India, Ministry of Labour, New Delhi, the reference is received.

The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-42012/199/2005-IR(CM-II). The dispute under reference relates to:

"Whether the action of the management of Archaeological survey of India, Bhopal in terminating the services of Shri Manoj Kumar Shrivastava and Shri Hakim Singh w.e.f. 28.6.04 is legal and justified? If not, to what relief are the workmen entitled?"

2. After receiving reference, notices were issued to the parties. Workman submitted statement to claim through Vice President of the Union. Case of Ist party is workman Manoj Kumar Srivastav was appointed as casual employee on December 2000 against sanctioned post notified on notice board. His services were terminated orally from 28.6.04. Other workman Hakim Singh was appointed as casual labour on 31.5.2001 against vacant clear post. His services were orally discharged illegally from 28.6.04. Both workmen were discharging duties of pen/watchman. Both workmen rendered continuous uninterrupted service from initial appointment till 20.6.04. He completed more than 240 days continuous service prior to their termination. Both workmen were not paid retrenchment compensation. Notice of termination was not served on him. termination of their service is in violation of Section 25-F of ID Act.

3. Ist party further submits that Indrabhan and Sukhlal and several others were appointed as casual workers. They are still continuing in employment of IInd party as such IInd party violated Section 25-G of ID Act. Principles of last come first go is violated. IInd party has engaged one Ram Kumar S/o Shri Rajendra Singh Yadav after termination of services of both workmen, workmen were not given opportunity of re-employment thereby IInd party violated Section 25 H of ID Act. On such ground, Ist party prays to set aside the termination of workman and allow reinstatement with full back wages.

4. IInd party filed Written Statement at Page 6/1 to 6/4 opposing claim of Ist party. IInd party submits that Manoj Srivastav and Hakim Singh were engaged for particular period. After expiry, the period was not extended. Both employees were engaged as casual labour for limited period. They were not engaged against vacant post. Both the employees are not covered as workman under ID Act. Simply engaging casual labour for particular work does not confer any right to the post, IInd party denied both workmen have completed 240 days continuous service. Violation of Section 25-F of ID Act is denied. Both workmen are not entitled to protection of Section 25-F of ID Act. They are not entitled to retrenchment compensation. That IInd party is not an industry under ID Act therefore provisions of ID Act are not applicable in the matter. IInd party has referred to the award in R/274/97 by this Tribunal. It is reiterated that both workmen were engaged as casual labour. They are not entitled to protection of ID Act as they have not completed 240 days continuous service.

5. Shri Hakim Singh died during pendency. His LR's are brought on record.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|--|---------------------|
| (i) Whether the action of the management of Archaeological survey of India, Bhopal in terminating the services of Shri Manoj Kumar Shrivastava and Shri Hakim Singh w.e.f. 28.6.04 is legal and justified? | In Negative |
| (ii) If not, what relief the workman is entitled to?" | As per final order. |

REASONS

7. Point No. 1- Ist party challenged termination of Shri Manoj Kumar Srivastava and Hakim Singh for violation of Section 25-F of ID Act. Affidavit of evidence is filed by Shri Manoj Srivastava stating that he was appointed as labour on 1.12.00. Hakim Singh was appointed on 31.5.00 by IInd party. He has narrated about the work performed by them looking after statues. They were continuously working till 27.6.04. They were discontinued on 15.6.04. Affidavit of Manoj Srivastava is also devoted on the point that the Government of India order dated 10.9.93 allowed temporary status to the casual employees. The affidavit of Manoj is further devoted that they were terminated without notice, retrenchment compensation was not paid to them. Shri Hakim Singh died on 2.10.06 leaving his widow Yeshoda Davi and one daughter. The evidence of Manoj Kumar remained unchallenged as management failed to cross examine him. Management has failed to adduce any evidence. Considering unchallenged evidence of Manoj, it is established that services of Manoj and Hakim were terminated in violation of Section 25-F of ID Act. They were denied opportunity of re-employment. The termination of both the workmen is illegal. For above reasons, I record my finding in Point No. 1 in Negative.

8. Point No. 2 In view of my finding in Point No. 1 termination of services of workmen are illegal for violation of Section 25-F of ID Act, question arises whether both workmen are entitled for reinstatement with back wages. Shri Hakim Singh has died, LR are brought on record therefore there is no question of reinstatement.

9. Ist party counsel relies on ratio held in

Case of Devinder Singh *versus* Municipal Council, Sanaur reported in 2011 (4) MPLJ-62. Their Lordship dealing with Section 25-F (a), of ID Act held provisions contained in Section 25-F are mandatory. Termination of services of workman which amounts to retrenchment without giving

one month notice or pay in lieu thereof and retrenchment compensation is null and void. Their Lordship further held Appellant appointed on contract without any advertisement and consideration of the competing claims of other eligible persons because of ban imposed by the State Government Interference by the High Court with the award of reinstatement of the appellant on said ground is not justified.

The facts of present case are not comparable in view of there is no pleading or evidence about ban imposed by State Government. The ratio cannot be applied in present case.

Reliance is also placed in case of Durgapur Casual Workers Union *versus* FCI reported in 2015 LAB. I.C. 771. Their Lordship held undertaking of Government which comes within meaning of industry or its establishment cannot justify its illegal action including unfair labour practice.

Ratio held in this case does not cover controversy between parties involved in the reference, therefore ratio held in this case cannot be applied to present case at hand.

Reliance is also placed on ratio held in case of Mackinnon Mackenzie & Company Ltd. *versus* Mackinnon Employees Union reported in 2015-LAB.I.C. 1645. Their Lordship dealing with violation of Section 25-F of ID Act, Retrenchment - One month notice not given to concerned workmen before retrenchment nor one month salary in lieu of notice was paid to them, It amounts to non-compliance of conditions precedent to retrenchment as per Section 25-F (a) & (c) of ID Act, Relief of reinstatement with back wages was granted.

In present case, evidence of Manoj Srivastava does not show that they were appointed following recruitment process, Considering short span of working from December & May 2000 till 27.6.04, reinstatement with backwages would not be justified. In my considered view adequate compensation would be reasonable. Considering short span of working, compensation Rs. 75,000/- to both the workmen Shri Manoj and Hakim Singh would meet the ends of justice.

10. In the result, award is passed as under:—

- (1) The action of the management of Archaeological survey of India, Bhopal in terminating the services of Shri Manoj Kumar Shrivastava and Shri Hakim Singh w.e.f. 28.6.04 is not proper and legal.
- (2) IInd party is directed to pay compensation Rs. 75,000/- each to Shri Manoj Kumar Srivastava and LR's of Hakim Singh Smt. Yashoda Devi within 30 days from the date of publication of award.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In

case of default, amount shall carry 9% interest per annum from the date of award till its realization.

R.B. PATLE, Presiding Officer

नई दिल्ली, 1 जुलाई, 2015

का.आ. 1381.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सीबीएन के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 33/2005) को प्रकाशित करती है जो केन्द्रीय सरकार को 01/07/2015 को प्राप्त हुआ था।

[सं. एल-42012/79/2003-आईआर(सीएम-II)]

मो. जाहिद शरीफ, अनुभाग अधिकारी

New Delhi, the 1st July, 2015

S.O. 1381.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 33/05) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of Central Bureau of Narcotics, and their workmen, received by the Central Government on 01/07/2015.

[No. L-42012/79/2003-IR(CM-II)]

Md. ZAHID SHARIF, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/33/05

Shri Sunil Kumar Kushwaha,
S/o Shri Hiralal Kushwaha,
78, New Katra,
Dilkush Park,
Allahabad

..... Workman

Versus

Dy. Narcotics Commissioner (Admn.)
Central Bureau of Narcotics,
19, The Mall Road,
Gwalior

..... Management

AWARD

Passed on this 5th day of June 2015

1. As per letter dated 2.5.2005 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-42012/79/2003-IR(CM-II). The dispute under reference relates to:

"Whether the action of the management of Central Bureau of Narcotics in terminating the service of Shri Sunil Kumar Kushwaha verbally w.e.f. 20.9.2001 is legal and justified ? If not, to what relief he is entitled?"

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at Page 2/2 to 2/7. Case of workman is that he belongs to Kachhi caste-a backward caste. He comes from poor family. Workman received education up to 9th standard. He was appointed on daily wages by oral order dated 4.7.99 by Narcotics Commissioner. Thereafter Narcotics Commissioner came to know that workman was having licence of light motor vehicle. Workman was deputed for driving vehicle for Narcotics deptt. Workman was also assigned duty of gardner in Narcotic office. Other 25 daily wage labours were also working in Narcotic Commissioner office. Ist party workman was continuously working with IInd party from 4.7.99. His services were orally terminated from 20.9.01. That he was continuously working more than 240 days during each of the year. He is covered for protection under Section 25-F of ID Act. His services were terminated without notice, retrenchment compensation was not paid to him.

3. Workman further submits that as per decisions of High Court and Apex Court, the persons worked more than 240 days cannot be terminated. He is entitled to be made permanent.

4. IInd party filed Written Statement at Page 5/1 to 5/5 opposing claim of workman. IInd party submits that workman was engaged intermittently in daily wages as per exigencies. There is no question of regularization of his service. Merely completing 240 days/206 days does not give right to temporary status. Casual labours who were in employment on the date of issue of O.M. is not applicable to the Ist party workman. Central Bureau of Narcotics is not an industry as per Schedule I Rule 3(f). The scheme dated 1.1.93 was not an ongoing scheme. Temporary status cannot be classified as casual labours as per clause IV of the scheme as Ist party workman was not employed before 1.9.93. It is reiterated that workman had not completed 240 days continuous service. IInd party has referred to the judgements by CAT in Case of Rastogi *versus* Union of India and judgements in other cases. It is submitted that casual labours not registered in Employment Exchange should not be appointed on regular post. That the statement of claim filed by workman is devoid of merit. On such ground, IInd party submits that claim of workman deserves to be rejected.

5. Workman filed rejoinder reiterating his contentions in statement of claim.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under.

My findings are recorded against each of them for the reasons as below:—

- (i) Whether the action of the management of Central Bureau of Narcotics in terminating the services of Shri Sunil Kumar Kushwaha verbally w.e.f. 20.9.2001 is legal and justified? In Negative
- (ii) If not, what relief the workman is entitled to? As per final order.

REASONS

7. The terms of reference pertains to legality of termination of services of workman w.e.f. 20.9.2001. Workman has pleaded that he had completed 240 days continuous service during each of the year since his engagement on establishment of IInd party. His services reorally terminated without notice.

8. Workman filed affidavit of his evidence. He stated that he was engaged on daily wages by IInd party from 4.7.99. He was continuously working till 17.8.00. Thereafter he was transferred to Head Office. He was also working as Electrician. He holds driving licence. IInd party was engaged in continuation of Cannavis. Claim of workman is opposed by IInd party on the ground that workman had not completed 240 days continuous service. Workman has stated that he completed 240 days continuous service prior to his termination. His services are terminated in violation of Section 25-F of ID Act Workman in his cross examination says he was working in Gwalior office on daily wages. He has produced documents about completing 240 days continuous service. He was paid wages for 30 days to end of the month. Appointment letter was not given to him. He was working in the department from 1999 to 2002.

9. Ist party filed application for production of documents dated 4.2.02. He requested production of documents of Attendance register in Gwalior Office, Delhi for the period 4.7.99 to 19.9.01. Though IInd party received copy of application, the documents are not produced neither reply is filed. IInd party did not adduce any evidence. The evidence of Ist party workman that he completed 240 days working during each of the year is not shattered. The contentions of IInd party that workman not completed 240 days service during any of the year. The documents are not produced by IInd party to substantiate those contentions. There is no cogent evidence in rebuttal of the evidence of workman. I do not find reason to disbelieve evidence of workman who completed 240 days continuous service. The evidence of workman that his services were terminated without notice, he was not paid retrenchment compensation is not shattered. I therefore hold that

termination of service of workman is in violation of Section 25-F of ID Act. For above reasons, I record my finding in Point No. in Negative.

10. Point No. 2- In view of my finding in Point No. 1 services of workman are illegally terminated in violation of Section 25-F of ID Act, question arises whether workman is entitled for reinstatement with back wages. As per evidence of workman, he was engaged on daily wages from 4.7.99 till date of his termination i.e. 20.9.01. Workman hardly worked for about 2 years on daily wages. He was not appointed following selection process. The relief of reinstatement with backwages would not be justified. Considering the period of working of Ist party workman, compensation Rs. 75,000/- would be reasonable. Accordingly I record my finding in Point No. 2.

11. In the result, award is passed as under:

- (1) The action of the management of Central Bureau of Narcotics in terminating the services of Shri Sunil Kumar Kushwaha verbally w.e.f. 20.9.2001 is not proper and legal.
- (2) IInd party is directed to pay compensation Rs. 75,000/- to the workman within 30 days from the date of publication of award.

In case of default, amount shall carry 9% interest per annum from the date of award till its realization.

R.B. PATLE, Presiding Officer

नई दिल्ली, 1 जुलाई, 2015

का०आ० 1382.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डब्ल्यूसीएल के प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 91/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01/07/2015 को प्राप्त हुआ था।

[सं० एल-22012/453/2004-आईआर(सीएम-II)]

मो० जाहिद शरीफ, अनुभाग अधिकारी

New Delhi, the 1st July, 2015

S.O. 1382.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 91/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of Western Coalfield Limited and their workman, received by the Central Government on 01/07/2015.

[No. L-22012/453/2004-IR(CM-II)]

MD. ZAHID SHARIF, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

No. CGIT/LC/R/91/2005

General Secretary,
Sanyukta Koyla Mazdoor Sangh (AITUC),
CRO Camp Iklehra,
Chhindwara

....Workman/Union

Versus

General Manager,
Western Coalfield Ltd.,
Pench Area, PO Parasia,
Chhindwara

....Management

AWARD**Passed on this 5th day of June 2015**

1. As per letter dated 1-9-05 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-22012/453/2004-IR(C-II). The dispute under reference relates to:

“Whether the action of the management of Pench Area of WCL in dismissal of Shri Ram Narayan, Tub loader from services is legal and justified? If not, to what relief the workman is entitled?”

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at Page 3/1 to 3/2 through SKMS Union. Case of workman is that he was working as tub loader at Thisgora colliery. As he was suffering from pain in heart and was not keeping good health, he was unable to attend duty. He was submitting intimation to the management. Chargesheet was issued to him on 25-3-2000. Enquiry Officer was appointed, enquiry was not properly conducted by Enquiry Officer. Principles of natural justice were not followed while conducting enquiry. He was not properly intimated about dates of enquiry. He was not given opportunity for his defence. The enquiry was illegally completed. The intimation sent to workman was returned by postal authority with remark “workman was not available”. Management had issued code of conduct as workman was not served with notice. Intimation was issued through public notice. It is reiterated that enquiry was not properly conducted. The management issued order of his dismissal illegally. Workman prayed for his reinstatement with back wages.

3. IInd party filed written Statement at Page 8/1 to 8/9 opposing claim of the workman. IInd party submits that WCL is registered under Company's Act. The service conditions of employees in cola industry are covered by NCWA, standing orders. The workers are provided facilities of free accommodation, free water, free medical aid etc. there is hospital known as Burkui hospital providing the

facilities of medical aid. In serious case, workers are referred to specialized hospitals in metropolitan cities. Workman was working as tub loader at Thesgora colliery of WCL, Pench area who was habitual absentee. Workman put attendance of 86 days during January 99 to June 99. Chargesheet was issued to workman on 25-3-00 under clause 23.30 of standing orders. As reply by workman found unsatisfactory, Enquiry Officer was appointed to Shri O.K. Prasad, Y.R. Janulkar was appointed as Presenting Officer as per order dated 13-6-2001. Workman was issued memorandum dated 13-6-01. Workman submitted application for adjournment. Again memorandum was issued to workman on 19-6-01 enquiry fixed on 22-6-01. Intimation was received back unserved. Again enquiry was fixed on 29-6-01. Intimation sent by RPAD received back unserved. Enquiry was also fixed on 6-7-2001. Memorandum sent to workman was served. Workman did not present in the enquiry. It is reiterated that enquiry was conducted following principles of natural justice. That when was fixed on 22-2-2002. Memorandum sent to workman was received with remark "refused to accept". Workman did not inform management about change of his address. Enquiry Officer submitted his report. Disciplinary Authority issued show cause notice dated 13-4-02 alongwith copy of Enquiry Report. After notesheet dated 12-12-02 was submitted to Competent Authority passed final order for dismissal of workman. The workman was unauthoriselly absent. Management considered his past record. Warnings were given to workman for unauthorized absence. On such ground, IInd party submits that punishment of dismissal against workman is proper. All adverse contentions of workman are denied. IInd party submits that workman has not established his claim.

4. As per order dated 23-7-2013, enquiry conducted against workman is found legal.

5. Considering pleadings on record and order on preliminary issue, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | | |
|-------|---|--|
| (i) | Whether the charges alleged against workman is proved from evidence in Enquiry proceedings? | In Affirmative |
| (ii) | Whether the punishment of dismissal imposed against workman is proper and legal? | In Affirmative |
| (iii) | If not, what relief the workman is entitled to?" | Workman is not entitled to any relief. |

REASONS

6. Workman is challenging order of his dismissal alleging that enquiry was not properly conducted. As per order dated 23-7-2013, enquiry conducted against workman is found legal. Workman did not participate in reference proceeding. His evidence is closed on 16-4-2014. As per

order sheet dated 16-11-2014, management's counsel Shri A.K. Shashi submits that management does not desire to lead evidence on other issues. Workman had failed to lead evidence on Issue No. 1 also.

7. Copies of Enquiry Proceedings are produced. Documents Page 8/43 shows that management's representative in his statement narrated working days of workman from July 99 to December 99. Workman worked for 86 days. The Enquiry Officer submitted his report that the charges against workman are proved. Workman has failed to participate in reference proceeding. No evidence is adduced by him. Workman also failed to participate in Enquiry proceedings despite enquiry was repeatedly adjourned. Management's representative produced bonus register for 1999. The statement of management's representative remained unchallenged. Management's witness Shri K.S. Unnathan filed affidavit of his evidence w.r.t. the enquiry conducted against workman. His evidence remained unchallenged. Considering the statement of management's representative and number of working days narrated in evidence of management's representative, the charge of unauthorized absence against workman is proved. For above reasons, I record my finding in Point No. 1 in Affirmative.

8. Point No. 2—In view of my finding in Point No. 1 charge of unauthorized absence against workman is proved. Workman failed to participate in Enquiry Proceeding as well as in present reference proceeding. Absolutely no evidence is adduced by workman on the point of quantum of punishment therefore I do not find reason to interfere in the punishment of dismissal imposed against workman. For above reason, I record my finding in Point No. 2.

9. In the result, award is passed as under:—

- (1) The action of the management of Pench Area of WCL in dismissal of Shri Ram Narayan, Tub loader from services is legal and proper.
- (2) Workman is not entitled to any relief.

R.B. PATLE, Presiding Officer

नई दिल्ली, 1 जुलाई, 2015

कांआ 1383.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एसईसीएल के प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 31/2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 01/07/2015 को प्राप्त हुआ था।

[सं एल-22012/14/2004-आईआर (सीएम-II)]

मो० जाहिद शरीफ, अनुभाग अधिकारी

New Delhi, the 1st July, 2015

S.O. 1383.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 31/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the management of Rajendra Navgaon Sub-Area of SECL and their workman, received by the Central Government on 01/07/2015.

[No. L-22012/14/2004-IR(CM-II)]
MD. ZAHID SHARIF, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/31/07

Shri Shanker Dutt Sharma,
S/o Shri Ramgopal Sharma,
PO Khairaha,
Distt. Shahdol

...Workman

Versus

Sub Area Manager,
Rajendra Navgaon Sub Area of SECL,
PO Khairaha,
Distt. Shahdol

...Management

AWARD

Passed on this 8th day of June, 2015

1. As per letter dated 20-2-07 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-22012/14/2004-IR(CM-II). The dispute under reference relates to:

“Whether the demand of Shri Shanker Dutt Sharma S/o Shri Ram Gopal Sharma for withdrawal of resignation tendered by him and reinstatement back in service is legal and justified? If so, to what relief is the workman entitled?”

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at Page 4/1 to 4/9. Case of Ist party workman is workman feeling aggrieved by order dated 24-4-96 accepting his resignation by IInd party raised the dispute. Workman submits that at the time of submitting resignation, he was not in fit state of mind. He was appointed as switchboard attendant in Rajendra Project, SECL, Token No. 781. Workman suffered from mental imbalance from 1992 having medical card No. 38/12. Token No. 919 starting from 22-5-93. That till 1995, workman was posted at Navgaon. He was required to work as switch board attendant which involved some risk to the

person mentally disturbed. Workman was transferred to Rajendra Project from 7-11-95. He was allowed light duty with lesser risk in view of medical health.

3. Workman submits that he become mentally imbalance, as such incompetent to understand his actions. Workman was visiting SECL hospital every day in ambulance for his treatment in the year 1996, he hardly did any duty. Under imbalance mental condition, he submitted resignation letter dated 1-4-96. His friend Shatrudaman Sharma and Shri Kapil Goutam informed his wife Beena Devi Sharma about his resignation. Immediately his wife requested in writing to IInd party No. 2 that workman was not in fit mental state. His resignation may not be considered. Wife of workman also submitted application to Opponent No. 2, its receipt was given to her but unfortunately the receipt was not found. The wife of workman submitted application in writing on 20-4-96. However IInd party had given its receipt dated 28-4-96. Wife of workman had requested that resignation of workman cannot be accepted as workman was not in fit state of mind. However workman had also submitted application for cancellation of his resignation. However ignoring all those applications, IInd party accepted resignation of workman on 24-4-96 passing the order. Workman was informed on 16-9-97 that the applications submitted by her not accepted. The workman raised the dispute. It is further submitted that workman was receiving treatment from Doctor Pradeep Kumar Joel in 1996. The legal notice was issued to IInd party and thereafter dispute was raised. The workman submits that resignation submitted by him be treated as withdrawn and workman be reinstated with backwages.

4. IInd party filed Written Statement opposing claim of the workman. It is submitted that Government had refused to make reference. Writ Petition No. 2095/2005 was filed before Hon'ble High Court as per order dated 2006. The appropriate Government referred the dispute. Ist party workman Shankar Dutt Sharma was initially appointed as General Mazdoor 26-10-82. His date of birth is 1-6-62. Workman was promoted as switch board attendant and posted at Rajendra Mine. It is submitted that Sohagpur Area of SECL has several colliery within radius of 7 kms. Employee are transferred from one to other area as per requirement of manpower. Both Navgaon Mine and Rajendra Mines are under control of same General Manager of Sohagpur Area. Employees of SECL are provided facilities of free medical treatment in hospitals. In serious cases, treatment in specialized hospital is provided at cost of the management. In case of illness, medical certificate is issued by Medical Officer. Workman had not issued any treatment for illness of mental imbalance. The workman voluntarily submitted resignation. It was accepted by management. Workman was relieved from his service. Workman never revoked his resignation. Once resignation is accepted, it becomes final. Workman raised dispute after 8 years for his voluntary resignation was accepted by the Government.

IInd party denies that workman was not in fit state of mine when he submitted resignation. It is reiterated that workman voluntarily submitted resignation which was accepted by management and the workman was relieved. The transfer of workman from Navgaon to Rajendra Mine is not disputed. IInd party submits that workman or his wife have not submitted any applications. The documents produced by workman are fabricated. The withdrawal of resignation submitted by workman is denied. On such ground, IInd party submits that there is no illegality in accepting resignation submitted by workman.

5. Workman submitted rejoinder dated 7-10-2010 reiterating his contentions in statement of claim.

6. Considering pleading on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | | |
|------|--|---------------------|
| (i) | Whether the demand of
Shri Shanker dutt Sharma
S/o Shri Ram Gopal Sharma for
withdrawal of resignation
tendered by him and
reinstatement back in service
is legal and justified? | In Affirmative |
| (ii) | If not, what relief the
workman is entitled to?" | As per final order. |

REASONS

7. The terms of dispute pertains to claim of workman for withdrawal of resignation submitted by him and reinstatement in service. The contentions of workman are at the time of submitting resignation, he was not in fit state of mind. He as well as his wife has submitted applications for withdrawal of the resignation. Management is denying all those documents of the workman.

8. Almost identical affidavit of evidence are filed by workman Shri Shankar Dutt Sharma and witnesses Shatrudaman Sharma & Beena Devi, wife of workman. The substance of the affidavit of evidence filed by them is that after workman submitted resignation, witness Shatrudaman Sharma informed about it to his wife Beena Devi, Beena Devi had approached management not to accept resignation of her husband. She had submitted application requesting not to accept resignation. That her husband submitted application dated 30-4-96. However its acknowledgement was shown dated 28-4-96. The order of acceptance of resignation dated 24-4-96 was shown antedated. That workman had suffered from mental imbalance and he was receiving treatment from SECL hospital and thereafter receiving treatment from Doctor Joel. Shri Shatrudaman Sharma in his cross examination says that workman is not his relative but his friend. He denies that his affidavit is drafted on say of the workman in

1992, he was working in Rajendra Mine. He was unable to tell in which mine the workman was working in 1992. The witness was residing in company quarters. Workman was allotted quarter by management during 1992 to 1996, workman was not residing in quarter. Witness and workman were residing in different places. Occasionally he was going to the house of workman. He was unable to tell how many time he visited house of workman during 1992 to 1996. That workman submitted resignation, he was working in Rajendra Mine as attendant. Workman told him about submitting resignation after 2-3 days. On that witness did not take any action. Above said witness says he received medical card. Free medical treatment was provided to him and his family members. After card is exhausted, new card was issued. The used medical card was either relaxed by Medical Officer or returned to workman. The evidence of Beena Devi, wife of workman is that she rushed to Manager of Rajendra Mines. That her husband had submitted resignation on 1-4-96. She was told about it by friends of workman. As per evidence of Shatrudaman, workman told about his resignation after 2-3 days. Thus evidence of wife of workman and witness Shatrudaman Sharma is not consistent. Beena Devi, wife of workman proved document Exhibit W-9. Application submitted to the management. Exhibit W-9 does not bear date or inward number. It is a true copy. From evidence of workman, application Exhibit W-10 is proved. By said application, workman prayed for cancellation of his resignation. Exhibit W-10 also does not bear the date, no inward number is mentioned. Mrs. Beena Sharma in her cross-examination says the employees and their family members are provided treatment in colliery hospital. Her husband was also taken to the colliery hospital for his medical imbalance. She admit that in case proper treatment is not available in colliery hospital, the patient was referred for treatment to specialized hospital. She denies that when her husband submitted resignation, he was mentally fit. Workman Shankar Dutt Sharma in his cross-examination says he had submitted application for withdrawal of his resignation on 20th to Area Manager. However he mentioned date of its acknowledgment 28th. His resignation was accepted on 24th. From his evidence, resignation Exhibit W-10 is proved. The documents of medical treatment are also admitted in evidence- Exhibit W-11 to 15. Workman was unable to tell when he last attended his duty. During 1992 to 1996, he was receiving treatment in colliery hospital. The medical card is issued. Medical card is required for receiving treatment. That he submitted resignation in his own handwriting on 1-4-96 to Brajendra Pandey Mine Supdt. At that time, there was commotion. Manager had called two witnesses. Their signatures were obtained on the resignation.

9. The evidence of management's witness Shri Rajendra Kumar Pandey that workman submitted resignation of two witnesses were called. They had signed on their resignation. His evidence is supported by witness

Shri Dinesh Kumar Sharma that workman had submitted resignation and insisted for its acceptance. Workman at fag end of his cross-examination says that after his resignation, he received amount of gratuity after one month. The amount was deposited in Joint account. Amount of CMPF was paid. He submitted application for CMPF amount. If evidence of workman and his witnesses is considered, in the light of evidence in cross-examination of workman, it is clear that the evidence of workman and his witnesses submitting application for withdrawal of resignation cannot be accepted. As per workman, he submitted application for withdrawal of resignation on 20th to the management deliberately in receipt it was dated 28th whereas the workman has received amount of gratuity after one month of his resignation for CMPF amount, he submitted application. It is consistent with evidence of workman and his witnesses and therefore the evidence of workman and his witnesses about withdrawal of resignation cannot be accepted.

10. The application Exhibit W-10 submitted by workman does not find reference about payment of gratuity amount, CMPF amount for returning back the amount received by workman. As a consequence of acceptance of resignation, workman was paid amount of gratuity and CMPF. If evidence of workman has accepted that he was not medically fit and wanted to withdraw his resignation, it was expected of him to return back the amount of gratuity and CMPF but no such pleadings is found on record. On evidence of management's witness Rajendra Pandey that workman submitted his resignation in his own writing and he was insisting for its acceptance therefore two witnesses called Gulam Mohd. and Dinesh Sharma. The witnesses signed on the resignation submitted by workman. Management has taken care that resignation submitted by workman was genuine and got confirmed in presence of two witnesses. Management's witness Shri Dinesh in his cross-examination says workman submitted resignation in the year 1996, he did not recollect the date. Workman had written resignation. Management's witness claimed ignorance whether workman was receiving treatment at that time. The elder brother of workman was working in the same mine. The information of resignation submitted by workman was given to him. Wife of workman had not submitted application for cancellation of resignation as the workman was not in fit state of mine neither such application was submitted by workman. Management's witness rather claimed ignorance about such applications. After workman signed on the resignation, management witness Dinesh signed on Exhibit W-10. He was not knowing about mental state of the workman.

11. The documents submitted by workman Exhibit W-1 is letter dated 24-4-96 accepting resignation of workman and collecting the dues of gratuity etc. Exhibit W-2 is copy of order of reference. Exhibit W-3 is copy of order of transfer of workman from Navgaon to Rajendra Mines. W-4 is copy

of resignation submitted by workman, its details are discussed supra. Exhibit W-5 is letter given by management that withdrawal of resignation by workman cannot be accepted. Exhibit W-6 is copy of failure report of conciliation report. Exhibit W-7 is copy of legal notice dated 22-9-04. Exhibit W-8 is copy of order of reference. Exhibit W-9 is copy of Writ Petition No. 2095/05. All those documents do not pertain to mental state of the workman. Exhibit W-11 is copy of OPD Card of SECL Hospital dated 22-5-93. Names of family members including Beena Devi are appearing in the card. Most of the entries of medical card are not legible. Exhibit W-2 is document of treatment of workman by Pradeep Kumar Joel dated 9-10-98. Exhibit W-13 relates to treatment of workman by Dr. Pradeep Joel subsequent to the alleged resignation. Exhibit W-14 is dated 15-2-2001, W-15 is dated 4-10-94. Workman in his cross-examination has admitted receipt amount of gratuity after one month of resignation and for CMPF amount he submitted application, it gives blow to the evidence of the workman and his witnesses that resignation was submitted by workman in unsound state of mind.

12. Learned counsel for workman Shri Ajay Gupta relies on ratio held in Case of Punjab National Bank *versus* P.K. Mittal reported in 1989 (Supp(2) SCC 175. Their Lordship dealing with the resignation, notice period for resignation held waiver of by employer and acceptance of resignation before expiry held not permissible where rules silent on acceptance or rejection of the resignation by the employer. Their Lordship further held the employee could withdraw his resignation before it became effective. Regulation 20(2) proviso its scope does not empower the bank to reduce unilaterally the period of notice.

In case of Srikantha S.M. *versus* Bharath Earth Movers Ltd. reported in 2005(8) SCC 314, their Lordship dealing with withdrawal of after acceptance but before being relieved. Their Lordship held employee resigning and seeking to be relieved as per rules. Employer company accepting the resignation on the same day and directing him to be relieved with immediate effect. However on same day Company granting him casual leave for subsequent period and informing him that he would be relieved at the close of the day immediately next to the date of expiry of the same casual leave period. Before that day the employee having sent a letter to the company withdrawing his resignation. In such circumstances, the employee held remained in service upto the postulated day. Hence he could rightly withdraw his resignation before that day and the company was bound to give effect to the withdrawal of resignation before that day.

The facts of present case are not comparable as workman was not granted and kind of leave. Resignation of workman was accepted on 24-4-96 as per Exhibit W-2 and he was directed to collect his dues after submitting No Dues Certificate. Exhibit W-10 is clear that the workman was relieved from service.

13. IInd party has produced copy of standing orders. The Clause 32.1 provides—

"workmen (other than those who have executed a bond to serve the company for a specified period) who wish to leave the company's service must give the company one month's notice in the case of monthly rated workmen and two weeks notice in the case of others. The management may at its discretion accept the resignation with immediate effect or from any date before the expiry of the notice period."

The pleadings and evidence are not clear whether the workman was monthly rated employee but there is no pleading by either part that workman was a daily wage employee therefore one months notice is expected to have been given. The resignation submitted by workman Exhibit W-10 does not contain any kind of notice for resignation given by workman. Even if clause 32.1 of standing order is considered, one month's notice is necessary. The resignation of workman could not have been accepted by management before completion of one months notice period. The resignation was submitted by workman on 1-4-96, the same was accepted by management on 24-4-96 before completion of one month is illegal.

14. Further reliance is placed by counsel for Ist party in

Case of Shambhu Murari Sinha *versus* Project and Development India and another reported in 2000(5) SCC-621. Ratio relates to the voluntary retirement and not resignation by employee therefore the principles laid down cannot be applied to case at hand.

Reliance is also placed in case of Andhra Bank *versus* K. Sudha Nagaraj reported in 1999-SCC(L&S) 793. Their Lordship of the Apex Court dealing with withdrawal of resignation held conclusion of High Court affirmed that employer employee relationship between appellant Bank and respondent could come to an end only when relieving order was to be issued and before that respondent was entitled to withdraw her resignation. The withdrawal letter was written by respondent before she was relieved. The resignation therefore held did not become effective.

The facts of present case are not comparable, principles laid down cannot be beneficially applied to case at hand as withdrawal of resignation by workman prior to 24-4-96 is not established.

15. The evidence of workman that he was not in fit state of mind when he submitted resignation application cannot be accepted in view that he received amount of gratuity and also submitted application for CMPF. Management had taken care to confirm resignation by workman in presence of two persons. However as per Clause 32.1 of Standing Orders, one months notice is required for resignation. The resignation is accepted by management on 24-4-96 before completion of notice period. Therefore

acceptance of resignation by management is illegal. For above reasons, I record my finding in Point No. 1 in Affirmative.

16. Issue No. 2—In view of my finding in Point No. 1, resignation of workman is illegally accepted before one month notice period, the question arise whether workman is entitled for back wages. As per evidence, workman is working as watchman with Private Contractor therefore workman cannot be allowed backwages. As the resignation is illegally accepted by Management, the workman is entitled for reinstatement but without back wages. Accordingly I record my finding in Point No. 2.

17. In the result, award is passed as under:—

- (1) The demand of Shri Shanker Dutt Sharma S/o Shri Ram Gopal Sharma for withdrawal of resignation tendered by him is legal.
- (2) Acceptance of resignation of workman is quashed. IInd party is directed to reinstate workman in service with continuity of service but without back wages.

R.B. PATLE, Presiding Officer

नई दिल्ली, 1 जुलाई, 2015

का०आ० 1384.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफसीआई के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 107/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01/07/2015 को प्राप्त हुआ था।

[सं० एल-22011/46/2008-आईआर (सीएम-II)]

मो० जाहिद शरीफ, अनुभाग अधिकारी

New Delhi, the 1st July, 2015

S.O. 1384.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the Award (Ref. No. 107/08) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the Industrial dispute between the management of Food Corporation of India, and their workmen, received by the Central Governemtn on 01/07/2015.

[No. L-22011/46/2008-IR(CM-II)]

MD. ZAHID SHARIF, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/107/08

The President,
Food Corporation of India (Handling) workers Union,

8654, Arakshan Road,
Paharganj,
New Delhi.

...Workman/Union

Versus

Chairman-cum-Managing Director,
Food Corporation of India,
16-20, Barakhamba Lane,
New Delhi.
General Manager (Region),
FCI, Regional Office,
Chetak Building, Habibganj,
Bhopal.

Area Manager,
FCI, District Office,
Sarda Bhawan, Rewa Road,
Satna (MP)

Area Manager,
FCI, District Office,
Ashvikash Kendriya,
Napier Town,
Jabalpur.

...Management

AWARD

Passed on this 12th day of June, 2015

1. As per letter dated 27.10.2008 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-22011/46/2008-IR(CM-II). The dispute under reference relates to:

- (i) Whether the action of the management of FCI in awarding loading/unloading work to contract workers as against the alleged existing practice of getting the same work done by the Departmental/DPS labourers of FCI for years together is resulting into change in their service conditions?
- (ii) If so, whether the above arrangement adopted by the management of FCI tantamount to violation of Section 9-A of the Industrial Disputes Act, 1947?
- (iii) To what relief are the affected workmen entitled?"

2. After receiving reference, notices were issued to the parties. Union submitted statement of claim at Page 2/2 to 2/4. Case of Union is that FCI is corporation set up by Central Govt. of India under Trade Union Act 1964. Union has 30,000 members enrolled with it. FCI has godown at Jabalpur. Direct Payment System was introduced in said depot. In Food Storage Depot, Rampur, Jabalpur 18 gangs of Direct Payment System labours were deployed whereas at Food Storage Depot, Satna 16 gangs of departmental workers are deployed under supervision of the Manager. Direct Payment System was introduced from 12.4.91. The

copies of agreement dated 12.4.91 and 1.11.1994 are produced. Departmental as well as DPS workers were discharging their duties. General Manager, FCI Bhopal. FCI Satna were executing work through DPS workers. That on 22.12.07, tender for execution of food handling operations through contractors at godowns and railheads was flouted on approval of FCI by CWC. It is alleged that FCI management has not taken into account the above FCI, HQ letter and changed the service condition by allowing CWC at Satna and Jabalpur including Railheads to replace contract labour system. It is alleged that the change is illegal.

3. IInd part filed Written Statement on 15.12.2011 opposing claim of the Union. IInd party has pleaded that FCI is constituted under the Food Corporation of India Act 1964. FCI is Central Govt. undertaking. Contract system was introduced in 1989. Prior to 1989, contractors were required to be appointed. The contract system was replaced by Mae system. Various notifications was quoted dated 29.11.85, 7.9.90, 1.11.90, 31.12.90, 26.3.91, 27.3.91 for introducing Direct Payment System. The Direct Payment system was introduced from 1.1.1994. That Rampur and Jabalpur Division were brought under Direct Payment System as per agreement between Union and management on 12.4.91. That DPS workers and departmental workers were employed in FCI. They could not be deployed at Railheads and State Ware Housing Corporation, Write Corporation, Cement Corporation, Coal Companies etc, Private Orgnaisations. It is reiterated that worker's demand that they could be deployed for carrying handling and transport work in some other department of Central Ware Housing Corporation, State Ware Housing cannot be accepted. Such demands are illegal. That illegal demands cannot be termed as Industrial Dispute. It does not change the service condition of workman. It is further submitted that management cannot be forced to do illegal act contrary to Section 9-A of ID Act.

4. It is further submitted that in May 2000, the Food Corporation of India had required some space for shortage of food grains due to exhaustion of the storing capacity etc. In view of policy decision of Government of India, FCI Headquarter issued certificate dated 14.4.2000 prohibiting offices of FCI. IInd party reiterates that service conditions of departmental and DPS workers are not changed in violation of Section 9-A of ID Act. On such contentions, IInd party submits that reference be answered in its favour.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|---|-------------|
| (i) Whether the action of management of FCI in awarding loading/unloading work to contract workers as against the | In Negative |
|---|-------------|

alleged existing practice of getting the same work done by the Departmental/DPS labourers of FCI for years together is resulting into change in their service conditions?

- | | |
|---|-------------|
| (ii) If so, whether the above arrangement adopted by the management of FCI tantamount to violation of Section 9-A of the Industrial Disputes Act, 1947? | In Negative |
|---|-------------|

- | | |
|---|---|
| (iii) If so, to what relief the workmen are entitled? | Workmen are not entitled to any relief. |
|---|---|

REASONS

6. The terms of reference pertains to non-engagement of departmental worker labours and awarding loading, unloading work to contract workers in violation of Section 9-A of ID Act. The claim of workman is denied by IInd party. Though dispute is raised by Union, it failed to participate in reference. The evidence of Union is closed on 21.4.2014.

7. Management filed affidavit of witness Shri Vijay Kumar, S/o Shri Suryug Prasad supporting the contentions of management in Written Statement. The evidence of management's witness remained unchallenged. From evidence of management's witness, documents Exhibit M-1 to M-3 are proved. Documents produced by Union are admitted by IInd party are marked Exhibit W-1 to W-3. Exhibit W-1 is agreement dated 12.4.91 regarding introduction of payment on piece rate basis to the workman. Exhibit W-2 is settlement dated 1.11.1994. Clause (a) provides All workers covered by NIIT Bombay's Award dated 1.4.91 shall be departmentalized *w.e.f.* 1.1.1994. Payment of one time lumpsum amount of Rs. 25,000 per worker etc. Exhibit W-3 is letter given by Manager (IR) to Regional Manager of FCI, Chandigarh relates to the payment to the departmental labours, DPS workers working in storage capacity. Union has not adduced any evidence to substantiate its contentions how change in service condition of departmental workers, DPS workers are in violation of section 9-A of ID Act. In absence of such evidence, the contentions of Union cannot be accepted. Therefore I record my finding in Point No. 1, 2 in Negative.

8. In the result, award is passed as under:—

- (1) The Union has failed to establish that the management has changed service conditions of Departmental and DPS labours of FCI in violation of Section 9-A of ID Act.
- (2) The workers are not entitled to any relief.
- (3) Parties to bear their respective costs.

R.B. PATLE, Presiding Officer

नई दिल्ली, 1 जुलाई, 2015

SCHEDULE

का०आ० 1385.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी०सी०सी०एल० के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 20/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 01/07/2015 को प्राप्त हुआ था।

[सं० एल-22012/279/2000-आईआर (सी-II)]

मो० जाहिद शरीफ, अनुभाग अधिकारी

New Delhi, the 1st July, 2015

S.O. 1385.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the Award (Ref. No. 20/2001) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, ASANSOL as shown in the Annexure, in the Industrial dispute between the management of Chinakury Mine No. 1 of BCCL, and their workmen, received by the Central Government on 01/07/2015.

[No. L-22012/279/2000-IR(C-II)]

MD. ZAHID SHARIF, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT, ASANSOL**

PRESENT: Sri Pramod Kumar Mishra,
Presiding Officer

REFERENCE NO. 20 OF 2001

PARTIES: The management of Chinakury Mine
No. 1 of M/s BCCL

Vs.

Sri Dwarika Gope

REPRESENTATIVES :

For the management : Sri P.K. Das, Ld. Adv. ECL

For the union (Workman) : none

INDUSTRY : COAL**STATE :** WEST BENGAL

Dated: 08.06.2015

AWARD

In exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour *vide* its letter No. L-22012/279/2000-IR(C-II) dated 01.06.2001 has been pleased to refer the following dispute for adjudication by this Tribunal.

"Whether the action of the management of Chinakuri Mine No. 1 Colliery under M/s ECL in dismissing the services of Sh. Dwarika Gope, Surface Trammer *w.e.f* 20.04.1998 is justified? If not, what relief the workman is entitled to?"

Having received the Order No. L-22012/279/2000-IR(C-II) dated 01.06.2001 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 20 of 2001 was registered on 25.06.2001 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims in pursuance of the said order notices by the registered post were sent to the parties concerned.

Case called out. Both of the parties; management as well as union/workman are absent.

On perusal of case record I find that the union's representative, Mr. R.K. Tripathi filed written statement on 02.05.2002. But management has not filed written statement till date. I also find that the union also neither appeared nor took any step after 01.08.2013. Notice was issued on 08.09.2014 *i.e.* 5 months ago but none appeared to represent the workman though today is the 2nd date after last notice. It seems that the union has also lost his interest to proceed with the case further. The case is also too old—of the year 2001. So I think it just and proper not to keep this old record pending any more. As such the case is closed and accordingly a "**No Dispute Award**" may be passed.

ORDER

Let an "Award" be and same is passed as no dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi, for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 6 जुलाई, 2015

का०आ० 1386.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आईओसी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नागपुर के पंचाट (संदर्भ संख्या 79/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26/06/2015 को प्राप्त हुआ था।

[सं० एल-30012/64/1997-आईआर (सी-1)]

एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 6th July, 2015

S.O. 1386.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 79/2001) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Nagpur as shown in the Annexure, in the industrial dispute between the management of M/s. IOC and their workmen, received by the Central Government on 26/06/2015.

[No. L-30012/64/1997-IR (C-I)]
M.K. SINGH, Section Officer

ANNEXURE

BEFORE SHRI J.P. CHAND, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/79/2001 Dated: 12.02.2015

Party No. 1 : The Senior Employees Relation
Manager, Indian Oil Corporation Ltd.,
Western Region, 254-C, Dr. Annie Besant
Road, Prabhadevi, MUMBAI-400025.

Versus

Party No. 2 : Shri B.M. Gharat,
C/o M.R. Dhone,
Kamla Park, Lohara,
Dist. Yeotmal-445001.

ORDER

(Dated 12th February, 2015)

The Central Government in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 Industrial Disputes Act, 1947 (14 of 1947) ("the Act" in short), referred the industrial dispute between the employers, in relation to the management of IOC Ltd. and their workman for adjudication to the Central Govt. Industrial Tribunal, No. 1, Mumbai as per letter No. L-30012/64/97-IR(C-I) dated 30.6.1998 with the following schedule:—

- (1) Whether the action of M/s. IOC Ltd, Western Region, Prabhadevi Mumbai in dismissing the services of Shri B.M. Gharat, Section Officer, Grade-I without giving opportunities to defend this case is justified? If not, what relief should be granted?"
- (2) Whether Shri B.M. Gharat is a workman or an officer, what relief should be granted for alleged dismissal from service *w.e.f.* 16.12.1994?"

Subsequently, the reference was transferred to this Tribunal for adjudication and disposal according to law, as per letter No. L-30012/64/97-IR(C-I) dated 13.11.2001.

2. It is necessary to mention here that before the transfer of the reference to this Tribunal for adjudication, the parties had already filed their respective statement of claim and written statement alongwith documents before the Central Government Industrial Tribunal ("the C.G.I.T." in short), Mumbai-1.

The case of the petitioner, Shri B.M. Gharat, ("the petitioner" in short) as presented in the statement of claim is that M/s. Indian Oil Corporation Limited ("the party No. 1" in short) is an oil corporation and a Government of India under taking and he is an employee of party No. 1 and a "workman" as per the definition of "workman" under the Act and he joined the service of party No. 1 on 13.05.1981 as per the appointment letter dated 16.04.1981, as a Teleprinter/Telex Operator and due to his honesty, integrity, sincerity and hard work, he got number of promotions and in 1988, he got promotion as Section Officer Grade II and in 1992, he got promotion as Section Officer Grade I and inspite of such promotions, in reality he was carrying out the work of purely clerical in nature, such as booking of hotel accommodation and preparing the pay orders for making payments to the hotels, preparing pay orders for stationary bills towards the miscellaneous stationary items required for the official use of senior executives in the head office, arrangements of lunch/dinner for official meeting and conference, work of maintenance, like control of imprest, cleaning and wiping of the office premises and almost all such type of work, to take care of the attendance of peon and sweepers and arrangement of deploying them to the respective and required department and floors and corners of the office premises and to arrange stationary for various department from CIP, Trombay and he was supposed to be always ready for the services to be rendered to the office executives as and when required and he was bound to the said works, as the culture of the department was the same and the works carried out by him were not at all of supervisory/Managerial/Administrative in nature, but the same were purely clerical/operational in nature.

The further case of the petitioner is that his service record was throughout blemish-less and he was working to the entire satisfaction of his superiors and inspite of the same, he was issued with the charge sheet dated 21.10.1993, which was received by him on 04.11.1993, where in it was alleged that 400 copies of Administrative Manual in Hindi along with 400 sets of binder covers and separators were received by him on 17.01.1993, *vide* MRN No. 018663, when he was working as S.O. I in the Head Office and even though, he was contacted by Shri Ruprel, the Chief Estate Manager, he could not give any details or any satisfactory reply regarding the receipt of the 400 copies of the

Administrative Manual and it was subsequently understood from M/s. Paramount Printing Press that 400 copies of the Administrative Manual along with binders, covers and separators were not delivered by the said printing press and the said Printing Press confirmed that basing on the acknowledgement on the MRN alleged to be given by him, a bill was raised and an amount of Rs. 89,300/- was collected from the corporation and while the above amount since has been refunded by the printing press to the corporation and in collusion with the representative of M/s. Paramount Printing press, he had willfully acknowledged receipt of 400 copies of Administrative Manual in Hindi along with binders covers and separators on 17.01.1993 *vide* MRN No. 018663 dated 17.01.1993 and thus he committed the mis-conduct of

- (i) Theft, fraud or dishonesty in connection with the business or property of the corporation or the property of other persons within the premises of the corporation and;
- (ii) Acting in a manner prejudicial to the interest of the corporation.

The further case of the petitioner is that he submitted his reply to the charge sheet *vide* his letter dated 19.11.1993, denying the charges levelled against him were mischievous and stale and he raised objection for submission of the charge sheet on 04.11.1993 for the alleged allegations pertaining to January, 1993 and that too after his transfer from Mumbai to Amravati in May, 1993 and he was assured that since no monetary loss was caused to the corporation, issuance of the charge sheet was a formality and the enquiry would be by way of formality and he was asked to give a formal reply, on the basis of whatever memory at his command and accordingly, on the basis of his memory, he submitted his reply.

The further case of the workman is that his signature on the MRN was taken in a misleading way and when he had suspected about the same, he had asked the said printer not to act upon the same and accordingly, the printer had not acted upon the same till he was working in the Head Office, Mumbai and it appeared that taking advantage of his transfer from Mumbai to Amravati, the Printer on the basis of the said MRN raised the payment against the corporation in June, 1993 and returned the same in July, 1993 and in all such transactions, he was not benefited at all and he had not received a paisa from the said printer and even there was no allegation from the printer that they had paid any money to him for obtaining his signature on the MRN and the procedure for submitting of the bills and the sanction for payments was such a tedious one that it was

impossible for any party to get payment from the corporation on the basis of the alleged MRN signed by a totally unauthorized person like him, but still huge payment of Rs. 89,300/- was claimed by the said printer against the corporation and the preparing, checking and sanctioning authority without any application of mind or might be even with malafide intention and ulterior motive sanctioned and paid the bill raised by the printer and shockingly, such sanctioning authorities were not at all been held responsible for wrongful payment to the said printer and he was only victimized and was made a scapegoat.

It is also pleaded by the petitioner that the charges levelled against him were false and vague and the charge sheet itself was illegal and untenable in law and in breach of the principles of natural justice and the delay in making the charges is a sufficient ground for setting aside the said charge sheet and the enquiry held against him was not at all fair, proper and legal and he was not given a fair opportunity to defend himself and material witnesses like the printer and sanctioning authority were kept back and material documents were not produced before the enquiry committee and procedure of the enquiry was not explained to him and the whole enquiry was a farce and the enquiry officer was a bias minded person and the charges were not at all proved in the enquiry and in fact, the alleged incident against him did not constitute any misconduct and the findings of the enquiry officer are perverse and illegal and the order of dismissal is itself illegal and untenable in law and in fact, his termination amounts to illegal retrenchment in breach of section 25-F, 25-F and 25-N of the Act and the Standing Orders and the punishment of dismissal from service inflicted upon him is shockingly disproportionate, even to the alleged charges levelled against him and his blemish less past service record was not considered and the exonerating circumstances brought to the notice of the management by him were not considered before or after his dismissal and he was the only earning member of his family and he is not gainfully employed after his dismissal.

The workman has prayed for his reinstatement in service with continuity, full back wages and with other monetary benefits.

3. The Party No. 1 in the written statement, after denying all the adverse allegations made in the statement of claim, has pleaded *inter-alia* that the petitioner was an officer and the claim made by him is misconceived, untenable in law and facts and the petitioner at the time of his termination on 16.12.1994 was functioning as section officer-I in Grade-A in the scale of pay of Rs. 2500-4820 and having regard to the nature of duties admittedly performed by him, he is excluded from the purview of the definition of "Workman"

under section 2 (s) of the Act and he was very cleverly and deliberately sought to hide the element of supervision, control and powers entrusted to him in regard to his job functions and on his own admission, the petitioner was doing the job of Managerial/Supervisory/Administrative nature and the present reference is liable to be dismissed in limini on that ground alone and the issue as to whether the petitioner is a workman or not under the Act ought to be decided as preliminary issue.

The Party No. 1 has admitted the appointment of the petitioner as a Teleprinter/Telex Operator and his promotion from time to time and his promotion as Section Officer Grade-I on 11.05.1992 and the duties performed by him as mentioned in the statement of claim.

It is further pleaded by the Party No. 1 that the petitioner was working in the Administration Department of the Head Office of the Corporation at Bandra from 1988 to May, 1993 and in the year 1991, an order was placed by DGM (A&M) of Head Office with Senior Materials Manager (Western Region), for printing of 400 copies of Administration Manual in Hindi and accordingly, an order was placed in September, 1991 on Paramount Printing press for the said 400 copies of the Manual at a total cost of Rs. 89,300/- and on 17.01.1993, the petitioner in the capacity of Section Officer-I acknowledged receipt of 400 copies of Manual alongwith 400 sets of binders, covers and separators, *vide* material receipt Note No. 018663 dated 17.01.1993 sent to him through the representative of the aforesaid printer and on 12.07.1993, the Chief Estate Manager, Headquarters wrote to the Senior Materials Manager (Western Region) that the aforesaid copies of Manual as ordered to have not been received, to which the senior Materials Manager *vide* his letter dated 19.07.1993 informed the Chief Estate Manager about the delivery of the said manuals by the supplier on 17.01.1993 and enclosed a copy of the MRN dated 17.01.1993 and the Chief Estate Manager made enquiries with the petitioner regarding the receipt of the said manuals, but the petitioner informed the Chief Estate Manager evasively stating that the manuals would be some where in the Head Office, but subsequently, it came to know from Paramount Printing Press, the printer that they had not delivered the manuals at all and the printers also confirmed that based on the acknowledgement on the said MRN, an amount of Rs. 89,300/- was collected from the corporation and the printer refunded the said amount to the corporation and it suspected that something was amiss and accordingly submitted the charge sheet dated 21.10.1993 on the petitioner and the petitioner, who had been transferred to Amravati in the meantime sought extension of time to submit his reply, which was given to him and the petition submitted his reply to the charge sheet

on 19.11.1993, wherein, *inter-alia* he admitted that as an officer, he was assigned the job of hotel booking and policy matters on hotels at Mumbai and all India basis, conference hall bookings and procuring stationary for the department for top management and in his explanation, the petitioner admitted that the MRN was signed by him irresponsibly and without taking care in haste and disturbed state of mind and begged excuse for the same and as the explanation of the petitioner was found unsatisfactory, an enquiry committee was constituted and the petitioner was intimated accordingly and the enquiry commenced on 09.03.1994 and the enquiry was concluded on 12.07.1994 and the Presenting Officer submitted his submissions on 15.07.1994 and the petitioner made his submissions on 26.07.1994 and the enquiry committee submitted its report and findings on 05.08.1994 and after a detailed analysis of the evidence adduced in the enquiry, the enquiry committee held the charges levelled against the petitioner to be proved and the General Manager (MO), the Disciplinary Authority after going through the enquiry proceedings, the findings of the enquiry committee and having regard to the gravity of the proven misconduct, proposed the punishment of dismissal of the petitioner and directed issuance of show cause notice and accordingly, on 22.08.1994, a show cause notice was issued to the petitioner, calling upon him to give his reply within seven days from the date of receipt of the show cause notice and the petitioner submitted his reply on 30.09.1994 and the Disciplinary Authority, by his communication dated 16.12.1994 informed the petitioner that since the petitioner had not brought in any new point in his reply warranting any change in the penalty earlier proposed, decided to dismiss the petitioner from services and accordingly, the petitioner was dismissed from service *w.e.f.* 16.12.1994 and the petitioner was dismissed from service *w.e.f.* 16.12.1994 and the petitioner on 06.02.1995 preferred an appeal to the Appellate Authority, *i.e.* the Executive Director, where in the regretted the mistake on his part that led to his dismissal and admitted that he committed the mistake without understanding the consequences and pleaded for mercy, but after consideration of the appeal preferred by the petitioner, the Appellate Authority rejected the appeal.

Party No. 1 has also pleaded that the enquiry was conducted against the petitioner in terms of the conduct, Discipline and Appeal Rules as applicable to him and the petitioner fully participated in the enquiry and he was defended by officer colleague, Shri A.S. Brahme and he was allowed to cross-examine the corporation's witnesses and to produce documents and witnesses in his defence and he was also supplied with the copies of the documents produced in the enquiry and to verify the same with the

originals and the enquiry was conducted by following the principles of natural justice and fair play.

The further case of the party No. 1 is that there was no delay in submission of the charge sheet against the petitioner and the misconduct of the petitioner came to light only on 17.09.1993 and the charge sheet was issued on 04.11.1993, after ascertaining further facts and the petitioner was working at Bandra head office at the relevant time and when the misconduct was discovered, he was already posted at Amravati and the petitioner sought details of the incident, before he submitted his explanation and he was never given any assurance by any of the officers of the corporation as alleged or that the charge sheet was issued as a formality and the punishment of dismissal is commensurate with the misconduct committed and proved in the domestic enquiry conducted against the petitioner and the petitioner is not entitled to any relief.

4. The petitioner did not file any rejoinder, even though he was given chance for the same.

5. At this juncture, I think it proper to mention that on 16.02.1999, the learned CGIT, Mumbai-1 framed the issues, "Whether the enquiry was fair and proper against the workman? And whether the finding of the EO is perverse?" And fixed the case to 05.03.1999 for hearing. After some adjournments, on 19.05.1999, the petitioner filed his evidence on affidavit and thereafter, the case was fixed for the cross-examination of the petitioner. After several adjournments, on 19.07.1999, the petitioner was directed by the learned Tribunal for filing of a fresh affidavit on the issues, "Whether the enquiry was fair and proper? And Shri B.M. Gharat is a workman?" And the case was posted to 06.08.1999 for the cross-examination of the petitioner. On 06.08.1999, the learned advocate for the petitioner filed an application to direct the party No. 1 to lead evidence at first, in regard to the issue as to whether Shri Gharat is a workman or an officer and after hearing the parties, on 28.10.1999, order was passed by the learned Tribunal directing the party No. 1 to prove that the petitioner is not a workman. Thereafter, the case suffered adjournments for adducing evidence from the side of the management and lastly, at the same stage, the case was transferred to this Tribunal.

After receipt of the case on transfer, this Tribunal on 1.2.2002, passed orders to decide all the issues at a time and directed the Party No. 1 to produce evidence regarding the validity of the enquiry and the punishment alongwith the issue as to whether the petitioner is a workman or not. On 20.5.2002, evidence of witness on affidavit was filed from the side of management. On 18.6.2002, affidavit was

filed on behalf of the petitioner. In the mean time, from 23.6.2003 to 30.3.2004, the post of the Presiding Officer remained vacant. After some adjournments of the case for the cross-examination of the witness from the side of the petitioner, the case was posted for hearing on the validity of the enquiry. While the case was pending for the said purpose, the Party No. 1 filed an application to frame the preliminary issue as to whether the petitioner is a workman as defined in section 2(s) of the Act. However, the case then suffered adjournments for the cross-examination of the management witness. On 17.4.2009, again order was passed regarding hearing on the validity of the enquiry.

On 16.9.2010, as it was found that the further proceeding of the case is dependent on the findings of the preliminary issue as to whether the petitioner, Shri B.M. Gharat is a workman or an officer, it was decided to take up the said preliminary issue for adjudication and accordingly, the matter was heard on 7.12.2010 and by order dated 14.01.2011, it was held that the petitioner, Shri B.M. Gharat was not a workman, but he was an officer and therefore, the reference is not maintainable.

Being aggrieved by the order dated 14.01.2011, the petitioner, Shri Gharat approached the Hon'ble High Court, Nagpur Bench, Nagpur in Writ Petition No. 3033/2011 for redress and the Hon'ble High Court, by order dated 11.01.2012 was pleased to quash and set aside the order dated 14.01.2011 and remanded the matter back for decision in accordance with law, after permitting the parties to lead evidence, oral as well as documentary and to cross-examine the witnesses if necessary.

6. After remand of the reference, the parties were directed to lead evidence on the preliminary issues, as to whether the petitioner is a workman or an officer and as to what relief or reliefs he is entitled to and to prove their case, party No. 1 examined the witness, Praveen Kumar Srivastava, apart from placing reliance on documentary evidence.

In support of his claim, the petitioner has examined himself as a witness.

7. It is pertinent to mention that no oral argument was advanced by both the parties. Both the parties filed their respective written notes of argument after service of the copy on each other. It was submitted by the parties to treat their respective written notes of argument as their oral argument.

In the written notes of argument, it was submitted by the learned advocate for the petitioner that the petitioner joined the service of party No. 1 *w.e.f.* 13.05.1981 as a

Teleprinter/Telex operator and due to his honesty, integrity and sincerity, he got several promotions and at the time of his termination, he was working as Section officer Grade I and he was under the control of four Officers, namely, Shri N.A. Hutha, the Assistant Manager, Shri S.S. Bapat, the Deputy Manager, Shri P. Bhaskaran, the administration Manager and Shri S.K. Ruperal, the Chief Estate Manager and it is well settled by the principles enunciated by the Hon'ble Apex Court in the judgement reported in (2006) 6 SCC-548 (*Anand Regional Cooperative Vs. Sailesh Kumar*) and the Hon'ble Bombay high Court in the decision reported in 1986 II CLR-479 (*Spices and Oil Seeds Vs. S.A. Kulkarani*) that the designation of an employee is immaterial for deciding whether a particular employee is a "workman" as defined under section 2(s) of the Act or not and the nature of the works, which were carried out by the particular employee at the time of his termination is to be looked into and even though, at the time of his termination, the petitioner was designated as Supervisor Grade I, he was actually doing operational and clerical works and such facts have been mentioned by the petitioner in his evidence in affidavit and the evidence of the petitioner is almost unchallenged and the superior officers of the petitioner, Shri N.A. Hutha, Shri S.S. Bapat, Shri P. Bhaskaran and Shri S.K. Ruprel were the only material and relevant witnesses to say about the duties performed by the petitioner and party No. 1 did not examine them to depose about the nature of the works performed by the petitioner and such material witnesses were withheld, the version of the petitioner remained unchallenged and for withholding material witnesses, adverse inference has to be drawn against the party No. 1 and the only witness examined by the party No. 1 has admitted that he was not in employment when the petitioner was in service and he has no personal knowledge about the work performed by the petitioner and as such, his evidence is liable to be discarded in limine and it is to be held that party No. 1 has failed to prove that the petitioner was not a workman and it is clear from the unchallenged evidence of the petitioner that nobody was working under him and the wrong answer given by the petitioner in his cross-examination should not be given any weightage, in absence of any material on record to support the claim of party No. 1 that the petitioner was an officer and not a workman and it is clear from the material on record that the petitioner was a workman.

In support of the submissions, the learned advocate for the petitioner placed reliance on the decisions reported in 2005 ICLR 345 (*C. Gopinath Vs. Thermax Limited*), 1985 (1) SCALE-59 (*Enuga Lakshamma Vs. Vannapuse Chinna*), 2000 ICLR-73 (*Hardwarilal Vs. State of UP*), 1990 ICLR-465 (*Zubeda Bano Vs. The Divisional Controller, MSRTC*), 1987

I CLR-62 (*Guest Keen Williams Ltd. Vs. Assistant Labour Commissioner*), 2005 I CLR-628 (*Sudhir Vs. Kanayalal Madanlal Factory*), 1989 II CLR-248 (*The Bombay Dyeing & Manufacturing Company Ltd. Vs. R.A. Bidoo*), Air 1976 SC-376 (*Shrikrishan vs. The Kurukshetra University*), 2008 I CLR-98 (*K.L. Kumar Vs. V.P. Patil*), and (1979) 3 SCC-371 (*Shankar Chakravati Vs. Britannia Biscuits*).

8. Per contra, it was submitted by the learned advocate for the party No. 1 in the written notes of argument that the petitioner, who joined in the service of the party No. 1 as Tele-printer/Telex Operator 13.05.1981 was promoted as Section Officer Grade II in 1988 and as Section Officer Grade I in 1992 and on such promotions, he became an officer in the management cadre and he came to be governed by the Conduct, Discipline and Appeal Rules (CDA Rules), 1970 and the departmental enquiry was initiated against the petitioner under the provisions of the CDA Rules and the petitioner himself has admitted that he was working in supervisory capacity and the departmental enquiry, the petitioner was represented by Shri S.A. Brahme, the Senior Manage (O) W.r. and the enquiry was conducted under the provisions of the CDA Rules and petitioner participated in the enquiry knowing fully well that his services were governed by the CDA Rules, 1970 and on the basis of the basis of the oral and documentary evidence adduced before this Tribunal, it is established that the petitioner was working in supervisory and managerial capacity and he did not come within the definition of section 2(s) of the Act.

It was further submitted by the learned advocate for the party No. 1 that the petitioner in his cross-examination has admitted that he signed the document Ext. M-III as an officer in the supervisory and managerial capacity and in his statement of claim, the petitioner has mentioned the duties which he was performing and from his own showing, it can be found that performing of such works involved exercise of managerial decisions and the same cannot be said to be routine duties given to any sub-ordinate employee or clerk and the petitioner was performing the duties independently without the concurrence of any other officer and the said duties were covered within the administrative and managerial duties and it is clear that the petitioner was an officer and not a workman.

In support of the submissions, the learned advocate for the party No. 1 has placed reliance on the decisions reported in 2008 (1) Bom C R-891 (*Karnatak Bank Ltd. Vs. Sunita B. Vatsaraj*), (1994) SCC-510 (*S.K. Maini Vs. M/s Carona Sahu Co. Ltd.*), 2008-I-LLJ94 (*Dhruba Kumar Vs. Travel Corporation of India Ltd.*), 1999 I CLR-458 (*German Remedies Ltd. Vs. Michel Gabriel Lopes*), 1999 I CLR-193 (*Union Carbide (India) Ltd. Vs. Ramesh Kumbha*), (2005) 3

SCC-232 (Sonepat Cooperative Sugar Mills Ltd. Vs. Ajit Singh), (2007) 7 Scc-171 (C. Gupta Vs. Glaxo Smithkline Pharmaceuticals Ltd.), (2001) 7 SCC-394 (Hussan Mithu Vs. Bombay Iron & Steel Labour Board), (2006) 6 SCC-548 (Anand Regional Coop. Vs. Sailshkumar), Air 2010 Sc-2939 (Triveni Engineering Vs. Jaswant Singh), AIR 2000 SC-3182 (Rhone Poulenc (India) Ltd. Vs. State of U.P.), 2008 (2) mh L J-416 (Mukund Staff and Officers Association Vs. Mukund Ltd.) and (2007) 1 SCC-491 (Muir Mills Unit Vs. Swayam Prakash).

9. It is the admitted case of the Parties that the petitioner joined the party No. 1 on 13.5.1981, as a Tele-printer/Telex Operator and he got his promotions and in the year 1988, he was promoted as a Section Officer Grade-II and in 1992, he was promoted as Section Officer Grade-I. According to Shri B.M. Gharat, though he was promoted as Section Officer Grade-II and Grade-I, he was carrying out the work of purely clerical in nature and his work consisted of booking of hotel accommodation and preparing pay orders for making payment to the hotels, preparing pay orders for stationery bills towards miscellaneous stationery items required for the official use of senior Executives in Head Office, arrangements for lunch/dinner for official meetings and conference, work of maintenance like keep and control impress, cleaning and wiping of the office premises and almost all such types of work, to take care of the attendance of the Peon, Sweeper and the arrangement of deploying them to the respective and required department and floors and corners of the office premises, to arrange stationery for various departments from C.I.P. Trombey and to render service to the office Executives as and when required and the works carried out by him were not at all the work of any supervisory/managerial or administrative nature but was purely clerical/operational nature.

10. The management has also not disputed the duties were being performed by the petitioner.

11. Before delving into the merit of the case, I think it necessary to mention the principles enunciated by the Hon'ble Apex Court and Hon'ble High Courts in some of the decisions cited by the learned advocates for the parties, regarding the test to determine as to whether an employee is a workman or not.

In the decision reported in (1994) 3 SCC-510 (supra), the Hon'ble Apex Court have held that:—

"Labour Court-Industrial Disputes Act, 1947-S. 2(s)-"Workman"- Employee doing more than one duties and functions, whether or not, a workman-Test to determine-Nature of duties, not designation, important-Main duties of and not some works

incidentally done by such an employee, held, decisive."

In the decision reported in (2005) 3 SCC-232 (supra), the Hon'ble Apex Court have held that:—

"Labour Court-Industrial Disputes Act, 1947-S. 2(s)-'workman'-Definition of, under-requirements of - Expression "any manual, unskilled, skilled, technical, operational, clerical or supervising work" - Import of - Clerical work- Ingredients of and determination of whether an employee performs the same - Held, to fall within said definition, job of employee concerned must fall within one or the other categories enumerated in said expressions-Merely showing that employees does not ipso facto make him a workman-Instances given-Moreover, said issue has to be determined on basis of conclusive evidence.

Held, job of a clerk ordinarily implies stereotype work without power of control or dignity or initiative or creativeness-Whether the same is being performed by an employee needs to be determined upon a finding as regards the dominant nature of job performed."

In the decision reported in (2001) 7 SCC-394 (supra), the Hon'ble Apex Court have held that:—

"Labour Court-Industrial Disputes Act, 1947-S. 2(s)-"workman"- Definition whether covered a particular employee-Test to determine-Held, designation only is not decisive, one has to examine the nature of the employee's duties, powers and functions-Predominant nature of the service is the proper test."

In the decision reported in (2006) 6 SCC-548 (supra), the Hon'ble Apex Court have held that:—

"Labour Court-Industrial Disputes Act, 1947-S. 2(s)(iv)-Whether the employee worked in supervising capacity and was not a workman-test to determine-supervision-Concept of-Held, not only the nature of his work, but also, the terms of his appointment in the job are relevant considerations - Supervision contemplates direction and control - Hence, in determining the nature of work, essence of the matter should be considered and the designation of the employee or the name assigned to his class should not be given undue importance-Primary duties performed by him are more important. Existence of subordinates whose work is required to be supervised is a sine qua non to prove supervisory work."

In the decision reported in AIR 2010 SC-2939 (supra), the Hon'ble Apex Court have held that:—

"Issue arising whether delinquent is workman-Same had nothing to do with application and interpretation of Standing Orders - Nature of job, duties and responsibilities and other such relevant materials are required to be examined."

In the decision reported in 2008(1) Bom CR-891 (supra), the Hon'ble Bombay High Court have held that:—

"The mere designation is not determinative factor as to nature of duties performed by employee. He must have a controlling power over one or more employees working under him."

In the decision reported in (2005) I CLR-345 (supra), the Hon'ble Bombay High Court have held that:—

"A person who performs operational working any industry would be included in the definition of "workman".

The Hon'ble Calcutta High Court in the decision reported in 1987 I CLR-62 (supra) have held that:—

"Industrial Disputes Act, 1947-S.2(s)-Workman-Members of Junior management staff of applicant-Petitioner Company will not cease to be workmen simply because the applicant petitioner company has included them in the category of officers."

Keeping the above mentioned settled principles in mind, now the present case in hand is to be considered as to whether the petitioner was a workman or an officer.

12. So far the oral evidence is concerned, the only witness examined by the party No. 1 has reiterated the facts mentioned in the written statement, in his examination-in-chief on affidavit. This witness has also proved the documents, the promotion order of the petitioner to Section Officer grade I, joining report of the petitioner dated 12.05.1992 as section Officer Grade I, Charge sheet dated 02.10.1993 submitted against the petitioner, reply of the petitioner to the charge sheet dated 26.11.1993, reply of the petitioner to the second show cause notice, material receipt note dated 17.01.1993, signed by the petitioner in favour of "Paramount Printing Press" and mercy petition dated 06.02.1995 submitted by the petitioner against the order of dismissal as Exts. M-II to M-VIII respectively.

In his cross-examination, this witness has admitted that as per records, Shri A.N. Hutha, Shri S.S. Bapat, Shri P. Bhaskaran and Shri S.K. Ruprel were superior officers of the petitioner and the petitioner was performing the duties about which he has mentioned in his statement of claim.

13. As already mentioned earlier, the petitioner in his examination-in-chief on affidavit has reiterated the facts mentioned by him in his statement of claim.

In his cross-examination, the petitioner has admitted that the contents of his statement of claim including paragraph two are true and correct and after his promotion as Section Officer Grade I, he was made a member of the Indian Oil Officer's Association and one Shri Brahme, a member of the Indian Oil officers' Association was his defence representative in the enquiry and in paragraph one of his affidavit, he has mentioned about the works entrusted to him as Section Officer Grade I and those works were not entrusted to any clerk or class IV employee. The petitioner has also admitted that he was performing the works entrusted to him by the Senior Officers through the employees working under him.

At this juncture, I think it proper to mention here that the learned advocate for the workman in the written notes of argument submitted that the admission of the petitioner that, "he was performing the works entrusted to him by the senior officers through the employees working under him" cannot be considered, as the said suggestion was given without any such pleadings and cited the decision reported in 1979(II) LLJ-194 (SC) (Supra) and 2008 I CLR-96 (Bombay) (Supra). However, with respect I am of the view that the said two decisions have no application to the case in hand as the facts and circumstances of the case in hand are quite different from the facts and circumstances of the cases referred in the said decisions. The admission made by the petitioner in this case is not in ignorance of legal rights or under duress or leading of evidence without any pleadings. Hence, there is no force in the contention raised by the learned advocate for the petitioner.

14. Perused the record including the evidence, both oral and documentary adduced by the parties. Considered the submissions made by the learned advocates for the parties.

From the materials on record, it is found that the petitioner was promoted to the post of Section Officer Grade-I in the grade of Rs. 2500-4820(Gr. A) by order dated 11.05.1992 and the petitioner accepting the terms and conditions mentioned in the said promotion order joined in the said post on 12.05.1992. It will not be out of place of mention here that in the written notes of argument, it was pointed out that in the promotion order dated 11.05.1993, the party No. 1 has mentioned that, "You are required to attend a training program to be conducted by HQ Training Centre for Grade-IV workmen appointed as grade-A" and the said order shows that the petitioner was treated as "Workman" at the time of his appointment as Section Officer Grade-A.

However, on perusal of the promotion order dated 11.05.1993, it is found that the petitioner was directed to

attend the training program as Section Officer grade-I to be held at the venue *i.e.* at Training Centre for grade-IV workmen and he was not treated as a workman by the party No. 1.

In his statement of claim in paragraph two and in his affidavit, in paragraph one, the petitioner has categorically mentioned about the duties which were being performed by him. It is to be mentioned here that in the statement of claim, no where the petitioner has mentioned that he was doing the duties entrusted to him, in consultation with and as per directions of Shri N.A. Hutha, Shri S.S. Bapat, Shri R. Bhasuram and Shri S.K. Ruperal or that he was loaded with additional work of looking after maintenance of the office premises in respect of cleaning, Sweeping and such type of work and he was working under Shri S.S. Bapat, who was Deputy Manager, Maintenance and control imprest and Shri Bapat used to assign him work in connection with control of imprest, about which he was mentioned in his evidence on affidavit. In absence of any pleading in the statement of claim, the evidence of the petitioner on affidavit in those regards cannot be considered.

The petitioner in his statement of claim has in clear and unambiguous terms has mentioned that one of his duties was to take care of the attendance of peon/sweepers and arrangement of deploying them to the respective and required department and floors and corned of the office premises. Such averment clearly shows the peon and sweepers were working under the petitioner and he had control over him and he had to deploy them to do different work and to supervise them. It is also found from the own admission of the petitioner and the other duties mentioned by him in his statement of claim and affidavit that the duties, which he was performing were managerial functions.

15. It is also found from the materials on record that admittedly, the petitioner had been drawing salary exceeding Rs. 1600/- which bring the case of petitioner out of section 2(s) (iv) of the Act.

It is to be mentioned here that in his reply dated 30.09.1994 to the second show cause notice, the petitioner has mentioned that, "I approached Shri C.T. Anantha Krishna, Vice-President, Indian Oil Officers's Association to seek legal assistance in any capacity as primary member who was kind enough to examine my papers and he had come to the conclusion that collusion was not proved and in order to prove collusion, M/s. Paramount Printing Press should have been put on the question box."

The above mentioned admission of the petitioner shows that he was an officer and not a workman.

16. Applying the principles enunciated by the Hon'ble Apex Court and the Hon'ble High Courts as mentioned above to the present case at hand and taking into consideration the pleadings of the parties, the contentions

raised by the learned advocates for the parties, the nature of works, being done by the petitioner and the evidence, both oral and documentary evidence documents adduced by the parties, it is found that the main duties of the petitioner was supervisory work alongwith some manual and clerical works. Hence, I find that the petitioner, Shri B.M. Gharat was not a workman but he was an Officer. Hence, the point No. 2 of the reference is answered against Shri B.M. Gharat, holding that he was not a workman but an Officer.

It is to be mentioned here that as the facts and circumstances of the case in hand as discussed above are quite different from the facts and circumstances of the cases referred in the decisions cited by the learned advocate for the petitioner regarding non-examination of material witnesses, with respect I am of the view that those decisions have no clear application to the case in hand. Hence it is ordered:—

ORDER

In view of the findings on point No. 2 of the reference, *i.e.* Shri B.M. Gharat was not a workman and he was an officer, the reference is not maintainable and as such, there is no question of determination of the first point of the reference *i.e.* whether the action of M/s IOC Ltd., Western Region, Prabhadevi, Mumbai in dismissing the services of Shri B.M. Gharat, Section Officer, Grade-I is justified or not. The reference is disposed of accordingly.

J. P. CHAND, Presiding Officer

नई दिल्ली, 6 जुलाई, 2015

का०आ० 1387.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय न० 2, धनबाद के पंचाट (संदर्भ संख्या 332/1999) को प्रकाशित करती है जो केन्द्रीय सरकार को 26/06/2015 को प्राप्त हुआ था।

[सं० एल-20012/396/1999-आईआर (सी-1)]

एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 6th July, 2015

S.O. 1387.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 332/1999) of the Central Government Industrial Tribunal-cum-Labour Court, No. 2, Dhanbad as shown in the Annexure in the Industrial Dispute between the management of M/s. CCL and their workman, received by the Central Government on 26/06/2015.

[No. L-20012/396/1999-IR(C-I)]

M.K. SINGH, Section Officer

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. 2), AT DHANBAD

PRESENT

Shri Kishori Ram

Presiding Officer

In the matter of an Industrial Dispute under Section
10(1)(d) of the I.D. Act, 1947.

REFERENCE NO. 332 OF 1999

PARTIES : Shri Banshi Dhari Dubey,
C/O Shri N.K. Dubey
Rameshwaram, Bariatu Road, Ranchi
Vs. The Project Officer,
Rajrappa Project of M/s. CCL, PO:
Rajrappa. Dist: Hazaribagh

Order No. L-20012/396/99-(C-I)
dt. 03.12.1999.

APPEARANCES:

On behalf of the workman/Union : Mr. C.S. Pathak
Workman's
Representative

On behalf of the Management : Mr. S. Prakash &
P.N. Mishra as
Management's
Representatives

State : Jharkhand Industry : Coal

Dated, Dhanbad, the 17th April, 2015

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec. 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication *vide* their Order No. L-20012/396/99-(C-I) dt. 03.12.1999.

SCHEDULE

"Whether the action of the Management of Rajrappa Project of M/s. Central Coal fields Ltd., PO; Rajrappa, Dist; Hazaribagh in dismissing Shri Banshi Dhari Dubey, Cat. I (PIS No. 11146388) from the services of the Company *w.e.f* 17.12.1998 *vide* Dismissal Order No. CGM(R)/Pers. 6/98/2447 dt. 15/16/12/1998 is legal and justified? If not, to what relief the concerned workman entitled?

On receipt of the Order No. L-20012/396/99-(C-I) dt. 03.12.1999 of the above mentioned reference from the Government of India, Ministry of Labour & Employment, New Delhi for adjudication of the dispute, the Reference Case No. 332 of 1999 was registered on 14.12.1999, and

accordingly an order to that effect was passed to issue notices through the Registered Posts to the parties concerned, directing them to appear in the Court on the date fixed, and to file their written statements along with the relevant documents. In pursuance of the said order, notices by the Registered Posts were sent to the parties concerned.

Both the parties made their appearances and filed their pleadings and photocopies of their documents. The Union and the O.P./Management through their own Representative appeared respectively, and contested the case.

2. The case of the workman Banshi Dhari Dubey S/o Shri Bharat Dubey is that he was appointed by the Competent Authority Shri J.N. Singh, G.M. (Pers. & Admn.) of M/s. C.C.L., Ranchi as per the Order dt. 04.01.1996. The workman and other persons as well were interviewed by the officer and other Representatives of the G.M. concerned and their photographs were affixed on their appointment orders as per the directions endorsed in the Appointment letter of the workman. On completion of his six months' probation, the police verifications were done and the workman was confirmed in Cat. I *w.e.f* 29.06.1996. He had joined his service on 29.01.1996 since then the service condition and Certified Standing Order of CCL became applicable to him, but not prior to the date of his appointment. He had excellent record of continuous service *w.e.f* 29.1.1996 to 17.2.1998. In spite of it, the Director (P), CCL, Ranchi on the pressure of E.D. (Vigilance) as per his secret letter dt. 17.06.1997 directed among others GM(R), Rajrappa, to suspend the workman from service and then to issue charge sheet as framed by Vigilance Department. Consequently, the Project Officer of Rajrappa Project as per direction of the GM(R) suspended him mechanically and arbitrarily as per order dt. 11.09.1997, and the chargesheet was issued on 15/16.10.1997 though the Project Officer had no power to appoint or take any disciplinary action for it. Accordingly he was dismissed from his service as per the order dt. 15/16.12.1998 *w.e.f* 17.12.1998 after a pretended enquiry. It resulted in the Industrial Dispute u/s 2A of the I.D. Act, 1947. The order of dismissal in respect of the workman was perverse, entirely illegal and unjustified in the eye of law and facts as well. It was rather a clear case of vindictive victimisation. Further alleged on behalf of the workman is that the Enquiry Officer A.S. Prasad did not act fairly in conducting the enquiry, so his enquiry report was only *ipse dixit* as an *ex-parte* because the workman was entirely deprived of his right to his representation in the enquiry proceedings. Moreover, the order of dismissal from service was not only harsh but also disproportionate to the alleged misconduct. The workman was not furnished with any materials or relevant documents of the Vigilance so he was also not given fair opportunity for his due explanation to the chargesheet. Rajrappa Project was a project of N.C.D.C Ltd., to which

the CCL is the successor. No Model Standing Order was applicable to the Project of Rajrappa, but even then a Sr. Vigilance Officer was appointed as Management Representative beyond the Certified Standing Orders of the CCL. The purported Enquiry Report discloses the Management witnesses to have submitted their prepared written joint statement. It clearly shows none of them had made any oral individual deposition before the Enquiry Officer. The workman had also protested by a written letter dt. 25.03.1998 against unilateral proceeding. The Enquiry Officer had also unreasonably refused the request of the workman to summon the then G.M., (P & A) issuing him his appointment letter also to others as well who had processed the case; as such the Enquiry Report was all along laconic and arbitrary and casual without any justified reasons. The workman had also submitted his comments on the Enquiry report as per his letter dt. 20.08.1998. At last, the workman was unreasonably punished for the unproved misconduct. Hence the workman is entitled for his reinstatement with his full back wages with all consequential benefits retrospectively.

3. The workman in his rejoinder has specifically denied all the allegations of the O.P./Management as false and misleading, further stating that the case has no substantial evidence nor any proof of the charges levelled against the workman and the entire enquiry proceeding was not free from partiality and prejudice.

4. Whereas the case of the OP/Management as represented in their written statement-cum-rejoinder is that instant reference is legally unmaintainable; that the workman Banshidhari Dubey S/o Bharat Dubey had fraudulently managed to secure his employment in CCL as Trainee Cat.-I as per his appointment letter dt. 4.1.1996 under the Land Looser Scheme of N.K. Area of CCL without approval of the Competent Authority. The Management of M/s C.C.L. had acquired lands under Plot Nos. 848(P), 894(P) and 896 of Khata Nos. 126 and 143 at Village Nagra, P.S. Balumath, Dist: Palamu for mining operation in the year 1995. As per the usual procedure, the Management offered an employment to one dependent of land looser of the village for his lands acquired by the Management for that purpose. For the aforesaid lands, Shri Sashibhusan Prasad s/o Khushi Dayal Sao, the owner of the said lands was appointed as dependent/nominee of the Land Owner as per the letter dt. 22.12.1995. The file of aforesaid Sashibhusan Prasad was forwarded by the Area Office after examining relevant documents for his appointment. But workman Banshidhari Dubey had no relationship with the said land holder, so he had not right to get employment against the lands as dependent of the land owner. Yet he got his employment in connivance with certain officers of the Management at the Head Quarters on basis of fraudulently fabricated note sheets without any base file of the Area concerned in respect of the lands acquired etc. Thus the workman had fraudulently entered into the

services of the Company on the basis of his purely fabricated letter of appointment dt. 4.1.1996.

5. Further alleged that when the fraudulent employment of the workman came to the knowledge of the Management in the year 1997, the workman was issued the chargesheet dt. 15/18.10.1997, calling for an explanation from him about the commission of his dishonest act in fraudulently securing the employment. The workman submitted his reply to it, denying the entire allegation levelled against him. As per the Office Order dt. 9/10.12.1997 of the Management, Shri A.S. Prasad, C.E. (M.S.), C.C.L, Ranchi and Shri U.K. Tripathy, Sr. Vigilance Officer, CCL, Ranchi, were appointed as the Enquiry Officer and the Management Representative respectively for the departmental enquiry into the chargesheet of the workman. On the notice of the enquiry by the Enquiry Officer, the workman though attended the enquiry on the dates fixed, yet evaded to participate in it on some pretext or other. The Enquiry Officer recorded the statements of the witnesses on the fourth setting on 14.4.1998. The workman was offered the opportunity to cross-examine them for defence, but he declined to do so, seeking an adjournment for it on the ground of non-engagement of his co-worker for it. Even then, he failed to bring any worker as also to participate in it. He had practically no defence on the charges, and he abandoned the enquiry on some pleas or other. At last, the finding non co-operation attitude of the workman in the enquiry, the Enquiry Officer submitted his enquiry report. The Disciplinary Authority examined the enquiry report and the relevant documents with the proceedings and issued the Second Show Cause Notice with the copy of the Enquiry report to the workman. In fact, the workman had not any ground to challenge the enquiry report. On perusal of all the relevant documents and the approval of the CGM of the Area concerned, the Disciplinary Authority dismissed the workman from his service. The action of the Management in dismissing the workman from his service was legal and justified. So the workman is not entitled to any relief.

6. The OP/Management in their simultaneous rejoinder has categorically denied all the allegations of the workman as totally incorrect, baseless and imaginary, further alleging that Shri J.N. Singh, posted as Director (Pers.) WCL, was also chargesheeted in that regard, and the department enquiry was proceeded against him by the Central Government as per the usual procedure for taking action in respect of Directors of the Company. A false and fabricated note sheet was made at the Head Quarter by the interested officers and appointment letters on that basis were issued to more than 24 workers including the workman through fraudulent means.

FINDING WITH REASONS

7. In the instant case, after hearing both the parties at the preliminary issue over the point of the departmental enquiry in the aspect of natural justice, the Tribunal as per

order No. 41 dt. 24.10.2013 held the domestic enquiry in accordance with principle of natural justice. It resulted in hearing the final arguments of both the parties on merits.

The argument advanced on behalf of the workman is that he was legally appointed by Shri J.N. Singh, the GM (P&A), the Competent Authority on the basis of his name sponsored by the Employment Exchange. He was given the employment after due interview. But his employment was not against any land, as he had neither land neither claimed for his such employment. It is also submitted that the reference of land on his appointment letter was a mistake of the Management, for which no rectification of it could be done by the responsible officer even after the personal meeting of the workman with him. Further urged on behalf of the workman is that the dismissal order passed by the incompetent Authority, the Project Officer, other than the Appointment Authority, on the basis of the vague/unproved charges is illegal and void abinitio as held by the Hon'ble Supreme Court in the case of Delhi Transport Union Vs. B.B.L. Hajelay and another reported in SCLJ Vd-10 at 110. The ruling to be the year 1972 refers to: 'Dismissal order not approved under S.33 (2) (b) of the Industrial Dispute Act, 1947. It clearly bars dismissal of a workman for any misconduct unconnected the dispute during pendency of its proceeding unless approved by the Labour Court/Tribunal under Sub-sec.(2)(b) of the Sec. 33 of the Act with Heading: "Condition of service, etc. to remain unchanged under certain circumstances during pendency of proceeding." So the ruling being distinct from the factum of the instant reference holds not good with it. The workman has nowhere any such pleading nor any tangible evidence over his plea about his personal contact with the responsible officer for rectification of his alleged appointment letter regarding the land mentioned therein. Hence his plea is baseless and unreliable.

8. Whereas the contention of Mr. S. Prakash, Sr. Manager (Pers.) as Representative for the OP/Management is that the workman has claimed to have got his appointment as Trainee Cat.-I as per his appointment letter No. PD/MP/Apptt./Land Loser/87-88 R-15 dt. 04.01.1996 (Ext.M.5/12=W1). The very alleged appointment letter of the workman stipulates his service liable to be terminated at any time without any notice if any information relating to his claim for employment, relating to his employment, relationship, educational qualification etc. found. There was no proposal for employment of workman Banshidhari Dubey ever initiated by the concerned Unit/Area for the Lands acquired as a pre-requisite to employment under the Land Looser Scheme. Further it has been contended that the workman was issued Chargesheet dt. 15/18.10.95 by the Disciplinary Authority to which he had submitted his reply. Finding his reply unsatisfactory, the Disciplinary Authority as per his letter No. 2497 dt. 09/10.12.1997 constituted the Departmental enquiry in details into the chargesheet against the workman. Consequent upon the due and fair enquiry, the workman

was found guilty of very serious misconduct of obtaining his employment with the OP/Management fraudulently under the Land Looser Scheme. The charges levelled against the workman were conclusively established against him. Thereafter the workman was issued the 2nd Show Cause Notice along with the copy of the enquiry report for his further any defence, if any. On the consideration of all the materials of departmental enquiry, the enquiry Report and reply of the workman to the 2nd Show Cause Notice, only the dismissal of the workman was thought fit for the ends of justice. Therefore the workman was dismissed from his service *w.e.f.* 17.12.1998 as per the Dismissal Order of the Disciplinary Authority dated 15/16.12.1998. It is also emphatically submitted on behalf of the Management Representative that the action of the OP/Management in dismissing the workman from his service in view of his grave misconduct is fully justified. Thus, the workman deserves his dismissal for his gross-misconduct.

9. Having gone through the entire records of the case, I find that the workman had not a bit of any defence against the charges of his misconducts for getting his employment fraudulently in connivance with the Higher Authorities concerned of the Management under the Land Looser Scheme for the same land Shri Sashi Bhusan Prasad, S/o Sri Khusi Dayal Saw, the genuine Land Holder under Khata 123 and 126 at Village Nagra, P.S. Balumath, Distt. Palamu had earlier got his appointment as per the Appointment letter dt. 22.12.1993 issued by the Dy. Chief Personnel Manager (I/R) of the Management. Thus the punishment to the workman with his dismissal appears to be quite proportionate to the very grave nature of his misconduct in the case.

In such circumstances, it is hereby, in the terms of Reference responded and accordingly awarded that the action of the Management of Rajrappa Project of M/s Central Coal Fields Ltd., P.O. Rajrappa, Dist. Hazaribagh in dismissing Shri Banshi Dhari Dubey Cat. I (PIS No. 11146388) from the service of Company *w.e.f.* 17.12.1998 as per the Dismissal Order No. CJM (R)/Pers. 6/98/2447 dt. 15/16.12.1998 is quite legal and justified in the eye of law. Hence the concerned workman is not entitled to any relief.

KISHORI RAM, Presiding Officer

नई दिल्ली, 6 जुलाई, 2015

कांआ 1388.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार टीएसएल के प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं 2, धनबाद के पंचाट (संदर्भ सं० 06/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26/06/2015 को प्राप्त हुआ था।

[सं० एल-20012/98/2006-आई.आर. (सीएम-1)]

एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 6th July, 2015

S.O.1388.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 06/2007) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 2, Dhanbad as shown in the Annexure, in the Industrial Dispute between the management of M/s TSL and their workmen, received by the Central Government on 26.06.2015.

[No. L-20012/98/2006-IR(CM-I)]
M.K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2), AT DHANBAD

PRESENT:

Shri Kishori Ram, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)
(d) of the I.D. Act, 1947.

REFERENCE NO. 06 OF 2007

PARTIES : The Joint General Secretary,
Bahujan Mazdoor Union, Mines Rescue
Station, PO:
Dhansar, Dhanbad,
Vs. The General Manager, (J)
M/s Tata Steel Ltd., At & P.O. Jamadoba,
Dhanbad.
Order No. L20012/98/2006-IR(CM-I) dt.
02/04.02.2007.

APPEARANCES

On behalf of the workman/Union : Mr. R.R. Ram, Ld.
Advocate

On behalf of the Management : Mr. D.K. Verma, Ld.
Advocate

State: Jharkhand Industry : Coal

Dated, Dhanbad, the May 13, 2015.

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec. 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication *vide* their Order No. L-20012/98/2006-IR (CM-I) dt. 02/04.02.2007.

SCHEDULE

"Whether the action of the Management of Sijua Colliery of M/s Tata Steel Ltd., in not providing employment to Sri Dhananjay Kumar Paswan, Dependant son of Shri Mundrika Paswan, justified and legal? If not, to what relief is the dependant son of Shri Mundrika Paswan entitled?"

On receipt of the Order No. L-20012/98/2006-IR (CM-I) dt. 02/04.02.2007 of the above mentioned reference from the Government of India, Ministry of Labour and Employment, New Delhi for adjudication of the dispute, the Reference Case No. 06 of 2007 was registered on 20.02.2007 and accordingly an order to that effect was passed to issue notices through the Registered Posts to the parties concerned, directing them to appear in the Court on the date fixed, and to file their written statements along with the relevant documents. In pursuance of the said order, notices by the Registered Posts were sent to the parties concerned.

Both the parties made their appearances and filed their pleadings and photocopies of their documents. The Union and the O.P./Management through their own Ld. Counsels appeared respectively, and contested the case.

2. The case of petitioner Dhananjay Kumar Paswan as represented by the Bahujan Mazdoor Union is that his father Mundrika Paswan, Ex-Heavy Tyndal was a permanent workman in Sijua Colliery of M/s Tata Steel Ltd. He had been sincerely performing his job since his appointment in 1981. He was regularized as permanent on 01.04.1983. The workman had been suffering from Heart disease since his sudden sickness of it on 17.03.2004. Though he got better treatment in the Company's Hospital of Sijua Colliery, he could not be fully cured of his disease. So he was referred to Tata Central Hospital at Jamshedpur where he was admitted on 17.04.2007. But he was medically declared unfit for his original job on 18.08.2007. Thereafter he had also himself represented before the Management on 20.09.2004 for employment of son Dhananjay Kumar Paswan @ Dhananjay Prasad in accordance with the Circular and provision of NCWA of the Company, as his aforesaid son is enrolled in the Employee Dependent Register of the Company as his first choice. Not any dependent of the workman is employed in the company. In spite of the workman's approach to the Higher Authority on 29.10.2004 for it, the Management never heard of his grievance nor provided an employment to his dependent son. The action of the Management in denying employment to the aforesaid dependent son of the employee is unjustified and illegal. So the petitioner as the dependent son of the workman is entitled to employment on the ground of his medically unfit under the circular and provision of the company.

The Union Representative in his rejoinder has specifically denied the allegations of the OP/Management, justifying the maintainability of the reference. Unfortunately workman Mundrika Paswan died on 25.04.2009 at his native village. Factually, the workman had entered in the service on 01.04.1983, and had completed his 21 years of his service, but he superannuated from his service on 27.08.2004 on the ground of medically unfitness. The workman had

fulfilled all criteria of the Company for employment of his dependent son on compassionate ground. There is no need of vacancy or requirement for it.

3. Whereas contra pleaded case of the OP/Management is that the Industrial Dispute has been raised by the Bahujan Mazdoor Union which is neither recognized nor functioning in any of the Establishments of the Company. It has no *lucas standi* to raise it. The employment of a dependent is not an automatic condition of service. Since Shri Dhananjay Kumar Paswan has never been in the employment of the Steel Company, the Industrial Dispute in lack of employer-employee relationship cannot be raised on his behalf. Moreover, mere enrolment of dependent's name in the Employee's Dependent Register does not confer any right for his employment on the strength of service of the guardian employee.

The O.P/Management in their simultaneous rejoinder has categorically denied the allegations of the Union, further stating that the provisions of NCWA is not applicable in respect of the Establishment of the Tata Steel Ltd. The dependent of an employee is entitled to register the name of his dependent in the 'Employees Dependent Register' (EDR) after completion of 15 years of service as per the Employment procedure applicable to the Company. The dependents of such employees whose names are enrolled in the EDR are considered for employment in case of vacancy/requirement in view of the number of years of service rendered by guardian employees concerned. Besides, there is no provision for providing employment to the dependent of an employee declared medically unfit. Thus, the action of the Management in not providing an employment to Shri Dhananjay Kr. Paswan as dependent of the workman concerned is legal and justified.

FINDINGS WITH REASONS

4. In the instant reference, PWI Dhananjay Kumar Paswan, the dependent son of the workman concerned on behalf of the Union, and MWI Dinesh Kumar Sharma, the Head Clerk, H.R. Deptt, Jamadoba GM Office for the OP/Management have been respectively examined.

Mr. R.R. Ram, the Learned Counsel for the petitioner, submits that the workman Mundrika Paswan, the father of the petitioner was medically declared unfit for his original job on 18.08.2004 and was accordingly discharged from service on 30.08.2004; his son petitioner was enrolled in the Employees Dependant Register (EDR) but on representation of the workman to the Management for providing an employment to his son Dhananjay Prasad under the provisions of the NCWA as the Tata Steel Ltd., covered NCWA in IV, V and VI till March, 2006, the petitioner was not given any employment by the Management on that ground, in spite of the workman having completed his service for 21 years; under such circumstances, the

petitioner is entitled to employment in place of his medically unfit Father worker.

Whereas the contention of Mr. D. K. Verma, Ld. Counsel for the OP/Management of the TISCO is that the Tisco has its own procedure of employment quite distinct from the NCWA, as the NCWA III and V in footnotes ascertain their inapplicability to the TISCO in this regard. Mr. Verma further submits that the names of Dhananjay Prasad (Petitioner) and Manjesh Pd. Paswan, the two sons of the workman are already enrolled and admittedly there are large number of dependants in seniority awaiting for the employment, so whenever their numbers come, they would get their employment.

5. On perusal and due considerations of the materials available on the case record, it appears undoubtedly workman Mundrika Paswan, Heavy Tyndal (P. No. 214045), Sijua Colliery was declared medically unfit for his original job as per the medical Report No. TCH/51-11355/2004 dt. 18.08.2004 (Ext. M.2) as also affirmed by the TISCO letter dt. 25/27th Aug., 2004 (Ext W.1) according to which he was discharged from the company's job *w.e.f.* 30.08.2004 on medical ground. It is also evident that between the two representations dt. 20.09.2004 and 29.10.2004 of the workman Mundrika Paswan (now deceased), the OP/Management as per their letter Form-V of the Company dt. 24.09.2004 has clearly affirmed the names of S/Shri Dhananjay Pd. (Kumar Paswan) (petitioner) and Manjesh Pd. Paswan (1st and 2nd Choice respectively) having been enrolled in the Employees Dependant Register for their employment on the strength of their father workman's service in the event of vacancy in the Colliery/Departments of the Company. It is also an acknowledged fact that as per the letter of the Vice President (E & RM) dt. 27th Nov., 1997 related to the procedure for employment of employee-wards at Jharia group of Collieries (Ext. M.1), in case where any employee is declared unfit to continue in employment, one of his dependents in the approved category will be offered employment.

Under such circumstances, it is, in terms of the reference, hereby responded and accordingly awarded that the action of the Management of Sijua Colliery of M/s Tata Steel Ltd. in not providing employment to Shri Dhananjay Kumar Paswan (whose name is also as Dhananjay Prasad) dependent son of Shri Mundrika Paswan (now deceased) is unjustified and illegal. Hence the dependant son of aforesaid workman Mundrika Paswan is entitled to employment in place of his said father, as he was medically declared unfit, and was discharged from his service on that score, after completion of his more than 15 years of satisfactory services as the case of deceased workman stands covering his 2nd choice as well.

Management is directed to implement the Award within a month after receipt of its copy following its publication, in the Gazette of Notification by the Government of India.

KISHORI RAM, Presiding Officer

नई दिल्ली, 6 जुलाई, 2015

का०आ० 1389.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सीसीएल के प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं० 2, धनबाद के पंचाट (संदर्भ संख्या 19/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-06-2015 को प्राप्त हुआ था।

[सं० एल-20012/329/1999-आईआर (सी-I)]

एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 6th July, 2015

S.O. 1389.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the Award (Ref. 19/2000) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad as shown in the Annexure in the industrial dispute between the management of M/s. CCL and their workmen, received by the Central Government on 26-06-2015.

[No. L-20012/329/1999-IR(C-I)]

M.K. SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. 2), AT DHABAD****PRESENT**

Shri Kishori Ram, Presiding Officer

In the matter of an Industrial Dispute under Section
10(1)(d) of the I.D. Act, 1947**REFERENCE NO. 19 OF 2000**

PARTIES : Manoj Pathak,
C/o The General Secretary,
National Coal Workers Congress,
Anne Villa, Rameshwar,
Bariatu Road, Ranchi-834009.
Vs.
The Project Officer,
Rajrappa Washery Project, PO: Rajrappa,
Distt. Hazaribagh

Order No. L-20012/329/99(C-I) dt. 28.1.2000

APPEARANCES:On behalf of the workman/Union : Mr. C.S. Pathak, Rep of
the workmanOn behalf of the Management : Mr. S. Prakash,
Manager as
Management
Representative

State : Jharkhand Industry : Coal

Dated, Dhanbad, the 13th April, 2015

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section. 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication *vide* their order No. L-20012/329/99(C-I) dt. 28.1.2000.

SCHEDULE

"Whether the action of the Mgt. of Rajrappa Washery, M/s. C.C.L., PO: Rajrappa, Dist.—Hazaribagh in dismissing Sri Manoj Pathak from Services of C.C.L. *w.e.f.* 08.02.1999 is legal and justified? If not, to what relief the concerned workman is entitled?"

On receipt of the Order No. L-20012/329/99(C-I) dt. 28.1.2000 of the above mentioned reference from the Government of India, Ministry of Labour & Employment, New Delhi for adjudication of the dispute, the Reference Case No. 19 of 2000 was registered on 01.03.2000 and accordingly an order to that effect was passed to issue notices through the Registered Posts to the parties concerned, directing them to appear in the Court on the date fixed, and to file their written statements along with the relevant documents. In pursuance of the said order, notices by the Registered Posts were sent to the parties concerned.

Both the parties made their appearances and filed their pleadings and photocopies of their documents. The workman and the O.P./Management through their own Union Representative and Management Representative appeared respectively, and contested the case.

2. The case of workman Manoj Pathak as represented by himself in his written statement, shorn of unnecessary details, is that he was legally appointed as per the office order dt. 13.10.1995 of Shri S.N. Singh, the G.M. (Pers. & Admn.), the Competent Authority of the CCL, Darbhanga House, Ranchi after due selection process. The G.M. (P & A) was appropriate Disciplinary Authority but not the Project Officer. The workman had joined his duty on 31.10.1995. On his joining, the police verification report was obtained at the order of the Appointment Authority, and the workman was allowed to continue his service. On successful completion of training and probation, once again the police verification was obtained and the workman was confirmed *w.e.f.* 30.04.1996 on the post of Cat-I NCWA. He was posted at Rajrappa Washery as per the order of the Appointment Authority whereas the Project Officer of the Rajrappa Washery had no such power for posting. the service of the workman was to be regulated under the provisions of Certified Standing Orders of CCL & NCWA. His service record was excellent. There was not any cause, ground or a complaint against him for initiation of a disciplinary proceedings, but the Director (Pers.), CCL, Ranchi, the Appellate Authority as per the Secret letter No. 538 dt. 17.6.997 on the motivated instigation of the Vigilance

Department unmindfully ordered the immediate suspension and chargesheet to the workman and others.

Further case of the workman is that no suspension/charge sheet was issued to the workman in the absence of any *prima facie* case of his misconduct till the complaint of Shri Amal Bhattacharya of CITU affiliated Union in collusion with Sri U.S. Tripathi, Sr. Vigilance Officer in course of the enquiry to Shri A.S. Prasad C.E.(MS) about non-compliance the orders of the Director (P & Ed) (Vigilance). On that complaint the alleged Chargesheet cum Suspension order dt. 21/22.03.1998 was mechanically issued by the Project Officer of Rajrappa Washery without any authority. The charge sheet was very vague. Neither details thereof nor copies of the relevant documents such as Vigilance Enquiry Report and the Statements of witnesses during the vigilance enquiry etc. were furnished to the workman with the charge sheet. It is a violation of the principle of natural justice. Though the workman as per his letter dt. 03.04.1998 had sought the opportunity for an effective explanation on the charge, the workman was deprived of it. Further it is alleged that the Enquiry Officer arbitrarily and unilaterally determined the workmen's right of representation with a co-worker of the Company's roll only, but not by a legal practitioner or a retired employee. Thus the right of the hearing of the workman was foreclosed, in result, the Enquiry Officer advanced the proceedings ex-parte even before its commencement, as on the first day of May 2, 1998, the Enquiry Officer had conducted himself as a persecutor and refused to record the pleadings of the workman. His letter dt. 21.5.1998 for his representation through a legal practitioner or by a Trade Union official as well as for his right to received the called for documents prior to commencement of the enquiry was also rejected, though the Enquiry Officer had no right to hold any proceedings or to act an Presenting Officer in absence of Project Officer on the said date. Being aggrieved with gross illegality and open partiality of the Enquiry Officer concerned, the workman represented before the Project Officer for replacement of Enquiry Officer with one honest and impartial one and also for copies of the documents, but the Project Officer refused to give any reply or any decision much less on his letters dt. 12.05.1998 and 03.06.1998, and later on his letter dt. 16.06.1998 was also refused to accept by the Enquiry Officer. At last, the Enquiry Officer, proceeding was held ex-parte as an empty formality which stands vitiated as unfair play.

3. The Enquiry Officer had allowed Mr. Amal Bhattacharjee, the Vice President of CITU and Outsider as co-worker for his representation after refusing his prayer for keeping Mr. K.N. Singh of CMPDI as Co-worker in the enquiry. Likewise it is alleged his representation to the Appellate Authorities including those of the Management went unheeded in clear violation of the Certified Standing Order. Similarly the alleged Enquiry Report of the Project Officer concerned based on ex-parte proceedings was quite

perverse without a mention of his series of representations including those dt. 02.12.1998 and 22.12.1998 as well as without any proposed punishment. It is also alleged the order dt. 8.2.1999 of the dismissal of the workman as not a speaking one, and it is totally based on perverse findings. Moreover, the workman was alleged to have secured the appointment order dt. 13.10.1995 by furnishing false information as alleged. Whereas he had not joined his duty prior to 31.10.1995, as on or before 30.10.1995, the Standing Order was inapplicable, so no disciplinary action could be taken under the provision of any standing Order. Neither the Appointment Authority had initiated any disciplinary action nor he was cited or examined as witness in the formal enquiry into the charges constituting not any misconduct as alleged against the workman. As such, the order of his dismissal being entirely perverse and illegal on facts and law is liable to be quashed. So the workman is entitled to his reinstatement with full back wages, continuity of service with seniority and all other consequential benefits.

4. The workman Manoj Pathak in his rejoinder has specifically denied all the allegations of OP/Management as entirely *mala fide*, false, misleading and baseless, further stating that he was duly appointed by the Competent Authority after due process of selection test and interview, and there was no misconduct committed during his service period at Barkakana and Rajrappa. The Project Officer of Rajrappa Washery had no authority equivalent to that of the Appointment Authority in the matter of the appointment or the disciplinary action.

5. Whereas challenging the maintainability of the Reference on the point of law, the contra pleaded case of the OP/Management is that workman Manoj Pathak S/o Sri Rameshray Pathak fraudulently managed to get his employment as the Trainee, Category-I in M/s. CCL as per the letter dt. 13.10.1995 under the Land Looser Scheme of Piparwar Area of the Company by falsely representing himself as the nephew of Salkhu Hazam (Thakur) without approval of the Competent Authority. The land of Sri Salkhu Hazam (Thakur) was also included in the acquisition of the Lands by the Company under Plot Nos. 183, 198, 500(P), 395, 431, 337, 278, 388, 349, 359, 51, 43, 45 and 46 of Khata Nos. 65, 35, 105 and 65 at Vill. Bahara, P.S. Tandwa, District Chatra in the year 1995 for carrying on mining operations. The name of Sri Chetlal Thakur, son of Sri Salkhu Hazam (Thakur) was forwarded for his appointment in the offer of his employment against the acquisition of his land as per the usual procedure. But on a fabricated note sheet of some officers of the Company in connivance with some interested persons in course of processing the Original file related to the appointment of the dependents of the residents of Bahara Village against the acquisition of their land, the instant workman had got his employment as the nephew of Sri Salkhu Hazam of that village for his same land as per the letter dt. 30.10.1995. Whereas Shri Chetlal Thakur was also issued the appointment letter dt. 13.11.1995

as the son of Salkhu Hazam against his referred Land acquired at the village Bahara. Thus two sets of workmen one set genuine dependents against their land and other set based on the manipulation of record on payment of huge amount to the officers concerned—were employed.

6. Further, it is alleged that workmen Manoj Pathak in his statement in the Vigilance enquiry admitted to have neither himself nor his father possessed any land at Vill: Bahara nor ever lived there. His confession also revealed the payment of a sum of Rs. 49,000/- by him to Sri Akhilashwar Prasad at his resident at Harmu, Ranchi and accordingly procurement of his fake appointment dt. 13.10.1995. *Prima facie* involvement of some officers of the Company in getting the false persons employed on the basis of concoctions and fabrications against the same lands under the Scheme revealed by the workman himself.

At the knowledge of it to the Management, the instant workman was issued charge sheet cum suspension letter dt. 21/23.3.1998, calling for his explanation for commission of the grave misconduct under the provision of the Certified Standing Order. The workman also submitted his reply to it, denying the allegations levelled against him.

Consequent upon the denial of the charges by the workman, the Management as per Memo No. dt. 10.04.1998 has appointed Shri A.S. Prasad, the then C, E. (MS), CCL, Ranchi and Mr. U.K. Thripathi, Sr. Vigilance Officer, CCL, Ranchi as the Enquiry Officer and the Management Representative (in short the M.R.) respectively for the departmental enquiry into the charge sheet. On notices of the enquiry to the workman, the enquiry was conducted by the Enquiry Officer in presence of the workman on a number of days, but the workman did not co-operate in it on some pretext or the other. It resulted in recording the evidence of the Management witnesses at the tenth sittings in his presence and the relevant documents marked as Ext. (M.E. 1 to 7). Despite offering the workman the opportunities to cross the Management witnesses, he declined to do so, requiring for an adjournment for it on the next day. In spite of giving several opportunities on fixed different dates, the workman accordingly evaded to cross-examine on some pretext or other. Lastly he abandoned the enquiry by observing that he had no case of defence, so he desired to resort to litigation for his benefits of employment on the basis of some legal plea and others before the Court of Law. The Disciplinary Authority on the receipt of the Enquiry report issued him second Show-Cause Notice enclosed with a copy of the Enquiry Report for his representation to it, if any. The workman tried his best to make out a case of litigation by submitting his representation with various allegations against the Enquiry Officer. On full examination of the entire issue, the Disciplinary Authority found not any merit in the contention of the workman and passed the dismissal order towards the workman from his service *w.e.f.* 01.02.1999. As

such, the action of the Management in dismissing the workman from his service was alleged to be legal, *bona fide* and justified. So the workman is not entitled to any relief.

Further, the OP/Management in their simultaneous rejoinder has categorically denied the allegations of the workman as fully illegal, baseless and and imaginary. Finally, the OP/Management sought an permission for afresh evidence to prove the misconduct against the workman in case the Enquiry held as unfair and improper.

FINDING WITH REASONS

7. At the preliminary point over the fairness of the domestic enquiry, the MWI Mr. A.S. Prasad, the Retd. Chief Engineer as the Enquiry Officer on behalf of the OP/Management and Manoj Pathak, the workman himself on his affidavited Chief for his sake were examined respectively.

On perusal and due consideration of evidence of both the parties at the preliminary issue, the Tribunal as per order No. 43 dt. 18.12.13 held the domestic enquiry quite fair, proper and in accordance with principle of natural justice towards the workman. In result, the case came up for hearing the final arguments of both the parties on merits for an adjudication.

The argument of workman Manoj Pathak (himself C/o General Secretary of the Union concerned, as advanced as per his written one as well is that he was dismissed for securing employment fraudulently, but not a single paper has been filed by the OP/Management as a roof of the fact that he had got his employment under the Land Looser scheme. It is also submitted that he neither has a piece of land nor applied under the Land Looser Scheme, rather on sponsoring his name by the Employment Exchange, he appeared at the interview as per the guidelines issued by the OP/Management, he was selected for the post of ITI Cat. I and he was appointed by the General Manager (P & A), Headquarters, and his service was confirmed after police verification and satisfactory training, but the OP/Management by mistake referred some plot numbers in his Appointment letters as brought by the workman to the notice of the Management; therefore, the Official Mr. Akhileshwar had orally assured him of its rectification, but the management did not rectify it, and instead of it dismissed him illegally. But all the facts about the mistakenly reference of some plots Nos by the Management in his appointment letter his request for its rectification and the refusal of the Management to do so are beyond his pleading; so such pleas are inadmissible. The Order of his dismissal dt. 8.2.1999 passed by the Project Officer lower in rank than the Appointing Authority is alleged to be entirely illegal and unjustified. Further submitted on behalf of the workman is that on that score alone the dismissal was held illegal and void abinitio by the Hon'ble Supreme Court in the case of Delhi Transport Union Vs. B.B.L, Hajelay &

Ors, but the ruling appears to be not specifically quoted hence inapplicable to the case. It is further alleged that the workman is entitled to reinstatement in his service.

8. On the other hand, Mr. S. Prakash, Sr. Manager (Pers.) as Representative for the OP/Management has contended that workman Manoj Pathak was appointed as the nephew of the Land holder concerned as per letter No. PD/MP/ Appt./Land Looser/87-88/R-809 dt. 13.10.1995 against the lands acquired at village Behara, Block Tandawa, Dist: Chatra under the Land Looser Scheme (Ext. W.1), but neither his appointment/employment offer to the workman under the said Scheme was with his nomination as nephew by the owner of the Land nor any proposal for such employment was initiated by the Unit/Area concerned under the mandatory procedure of the said scheme. The workman was issued the charge sheet dt. 21/22.03.1998 to which he had also submitted his reply. On finding his reply unsatisfactory, the Disciplinary Authority as per letter dt. 10.04.1998 directed the departmental enquiry in details into it. The workman was given full opportunity for his defence. After holding the departmental enquiry fairly, the workman was found guilty of very serious misconduct for his getting fraudulently employment with the OP/Management under the Land Looser Scheme. The Disciplinary Authority carefully examined the Enquiry Report and issued second Show-Cause Notice along with the Enquiry Report to him for his representation. The workman also submitted his reply to the second Show-Cause. The Disciplinary Authority on due consideration of the all the facts found only the dismissal of the workman for the end of justice. Accordingly the workman was dismissed for his service w.e.f. 08.02.1999. As per the letter dt. same of the Disciplinary Authority. As such the action of the Management in dismissing the workman from the service of the Company is fully justified; as such he is not entitled to any relief whatsoever.

9. After due consideration of all the materials, I find that the workman Manoj Pathak had factually got his appointment letter dt. 13.10. 1995 as Trainee Cat.-I (IIT) as the nephew of the Land Holder-Chetlal Thakur S/o Salkhu Hazam (Thakur) as specified under Khata & Plot Nos at Village: Bahera, P.S. Tandwa, Dist: Chatra under the Land Looser Scheme in a fraudulent manner in collusion with higher official. Whereas Chetal Thakur S/o Salkhu Hazam Thakur by caste, the real owner of the land acquired at said village under the same scheme was appointed as Trainee Cat.—I as per the letter 3.11.1995 later on. Thus the workman appears *prima facie* to be different caste having no relationship with the Land Holder. The alleged appointment of the workman appears to be *prima facie* fraudulently obtained by the workman few days earlier from the OP/Management.

In result, it is hereby responded and accordingly awarded in the terms of the Reference that the action of the

Management of Rajrappa Washery of M/D CCL, PO: Rajrappa, Dist: Hazaribagh in dismissing Sri Manoj Patham from the service of CCL w.e.f. 8.2.1999 is quite legal and justified. Hence the workman concerned is not entitled to any relief.

KISHORI RAM, Presiding Officer

नई दिल्ली, 6 जुलाई 2015

का० आ० 1390.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं० 2, धनवाद के पंचाट (संदर्भ संख्या 43/1996) को प्रकाशित करती है जो केन्द्रीय सरकार को 26/06/2015 को प्राप्त हुआ था।

[सं० एल-20012/67/1995-आई आर (सी-1)]

एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 6th July, 2015

S.O. 1390.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 43/1996) of the Central Govt. Indus. Tribunal-cum-Labour Court, No. 2, Dhanbad as shown in the Annexure in the industrial dispute between the management of M/s BCCL and their workmen, received by the Central Government on 26/06/2015.

[No. L-20012/67/1995-IR(C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2), AT DHANBAD

PRESENT:

Shri Kishori Ram, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

REFERENCE NO. 43 OF 1996

PARTIES : The Secretary,
Bihar Colliery Kamgar Union,
Jharnapara, Hirapur, Dhanbad,
Vs.
The General Manager,
Govindpur Area No. III of M/s BCCL,
PO : Sonardih Dist. Dhanbad.
Ministry's Order No. L-20012/67/
95-I.R.(Coal-I) dt. 19.03.1996.

APPEARANCES:

On behalf of the workman/Union : Mr. K. Chakraborty,
Ld. Advocate

On behalf of the Management : Mr. D.K. Verma, Ld.
Advocate

State : Jharkhand Industry : Coal

Dated, Dhanbad, the 30th April, 2015

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section. 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication *vide* their Order No. L-20012/67/95.I.R.(Coal-I) dt. 19.03.1996.

SCHEDULE

"Whether the action of the General Manager, Govindpur Area No. III of M/s BCCL P.O. Sonardih Dist. Dhanbad in dismissing Shri Shiba Bhuiya M/Loader *w.e.f.* 13.11.1991 is justified? If not, to what relief is the concerned workman is entitled."

2. Neither any Union Representative for Bihar Colliery Kamgar Union, Jharnapara nor workman Shiba Bhuiya appeared despite three Regd. Notices for appearance. Mr. D.K. Verma, Ld. Advocate for the OP/Management is though present, yet no Management witness produced for his evidence on merits.

On perusal of the case record, it is quite clear that this is the oldest case of the year 1996, which has been all along pending for the evidence of the Management on merits since 09.05.2006, following the Order No. 57 dt. same of the Tribunal whereby the domestic enquiry conducted by the Enquiry Officer was held not fair and proper in accordance with the principle of natural justice. Since then not a single witness on behalf of the Management produced or examined on merits in spite of ample opportunities to the OP/Management, even after giving last chance for it.

Under these circumstances, I find that when the OP/Management has been totally failure in proving the charges of any misconduct against the workman on merits before the Tribunal, the case has been closed and accordingly, in the end of justice it is hereby ordered and responded in the terms of the Reference that the action of the General Manager, Govindpur Area No. III of M/s BCCL, PO; Sonaridh, Dist. Dhanbad in dismissing Shri Shiba Bhuiya, M/Loader *w.e.f.* 13.11.1991 is totally unjustified; hence the workman is entitled to reinstatement in his service with 50% back wages retrospectively.

The Management is directed to implement the Award within one month from date of its receipt after publication in the Gazette by the Government of India.

KISHORI RAM, Presiding Officer

नई दिल्ली, 6 जुलाई 2015

का० आ०. 1391.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मै० सीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय न० 2, धनबाद के पंचाट (संदर्भ संख्या 306/1999) को प्रकाशित करती है जो केन्द्रीय सरकार को 26/06/2015 को प्राप्त हुआ था।

[सं० एल-20012/198/1999-आई आर (सी-1)]

एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 6th July, 2015

S.O. 1391.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 306/1999) of the Central Govt. Indus. Tribunal-cum-Labour Court, No. 2, Dhanbad as shown in the Annexure in the industrial dispute between the management of M/s. CCL and their workmen, received by the Central Government on 26/06/2015.

[No. L-20012/198/1999-IR(C-I)]

M.K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2), AT DHANBAD

PRESENT :

Shri Kishori Ram, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

REFERENCE NO. 306 OF 1999

PARTIES : Sri Jaypal Singh,
C/o Sri Sukhdeo Singh,
At Rajhara Colliery 7 No., P.O. Rajhara
Colliery, Dist; Palamu.

Vs.

The Chairman cum Managing Director,
M/s. Central Coalfields Ltd.,
Darbhanga House, Ranchi.

Order No. L-20012/198/99(C-I)
dt. 19.11.1999.

APPEARANCES :

On behalf of the workman/Union : Mr. C.S. Pathak,
workman
Representative

On behalf of the Management : Mr. P.N. Mishra &
Swayam Praklsh, as
Management Reps.

State : Jharkhand

Industry : Coal

Dated, Dhanbad, the 24th April, 2015

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication *vide* their Order No. **L-20012/198/99(C-I) dt. 19.11.1999.**

SCHEDULE

"Whether the dismissal of Shri Jay Pal Singh from Services by the Management of M/s. CCLtd, is proper, justified and legal? If not, to what relief the workman is entitled to?"

On receipt of the order No. L-20012/198/99(C-I) dt. 19.11.1999 of the above mentioned reference from the Government of India, Ministry of Labour & Employment, New Delhi for adjudication of the dispute, the Reference case No. 306 of 1999 was registered on 08.12.1999 and accordingly an order to that effect was passed to issue notices through the Registered Posts to the parties concerned, directing them to appear in the Court on the date fixed, and to file their written statements along with the relevant documents. In pursuance of the said order, notices by the Registered Posts were sent to the parties concerned.

Both the parties made their appearances and filed their pleadings and photocopies of their documents. The workman and the O.P./Management through their Representatives appeared respectively, and contested the case.

2. The case of workman Jaypal Singh as stated in his written statement is that he was appointed as per the order dt. 04.01.1996 of Sri J.N. Singh, the G.M. (Pers. & Admn.), the Competent Authority of M/s. CCL, Ranchi, following its due process such as interview and selection. The appointment order was widely circulated, directing the Principal, CETI (BRK), Barkakana, to get police verification of the workman earliest. Accordingly, he continuously rendered his loyal service since his joining on 06.02.1996 up to his dismissal order dt. 4.12.1998. He was suspended by the Project Officer concerned as per the Letter No. DP/ Sectt./Secret/33/538 dt. 17.06.1997 of the Director (Pers.), CCL, Ranchi. The Project Officer, Rajrappa washery as pretended Disciplinary Authority mechanically issued him the stereotype charge sheet as framed and directed by the Vigilance Department for the misconduct of fraudulently securing employment under CCL 17(1) (o) of the Certified Standing Order of M/s. CCL without approval of the Competent Authority. In spite of his letter dt. 18.10.1997, the charge sheet was issued him a formality without relevant documents and statement of witnesses as the requirement of natural justice. The workman got deprived

of his defence. The genuineness of the appointment order was admitted in the charge sheet as also affirmed by the Appointing Authority J.N. Singh, but its non approval by the Competent Authority was not the fault of the workman. So alleged enquiry as per the memo dt. 13.12.1997 of the Director (P) and ED (Vig) was again mere a formality. The Enquiry Officer not fairly but arbitrarily held the joint enquiry to the prejudice of the workman, despite his protest. On the first day of the enquiry, the relevant objections of the workman to legality of the charge sheet, locus standi of the Project Officer and representation, etc. were unconsidered even in non-representation of the Presenting Officer, the delinquents were forced to sign the proceeding under protest.

3. Further alleged that his objection to the written or joint depositions of three witnesses instead of their statement was also unconsidered. It was one reproduced from the Computer Floppy. The alleged joint deposition of the Vigilance Officials investigating the case was inadmissible as no evidence. Not any document produced tested in presence of the accused. All the alleged documents including the statements of witnesses and Vigilance Enquiry report taken as exhibits by the Enquiry Officer are fabricated as evidence. The alleged Enquiry Report of Sri A.S. Prasad, the Enquiry Officer as the quasi judicial Authority being laconic was no enquiry report except his ipse-dixit. His representation dt. 28/29.4.1998 over the alleged enquiry report was also unconsidered. The entire disciplinary proceeding *ex parte* as well as the finding of enquiry was entirely biased and prejudiced. Thus the dismissal order dt. 04.12.1998 also as *ex parte* concerning the workman was entirely perverse, so legally void, as *prima facie* misconduct neither made out nor proved under any Standing Orders, Standing or Certified, prior to his appointment on or before 04.01.1996. None other than the Appointing Authority had to take disciplinary action against the workman. The order of dismissal from service is harsh and disproportionate even if assumed the quasi judicial proceeding as fair and some charge as proved. The workman is legally entitled to reinstatement with full back wages and consequential benefits.

The workman in his rejoinder has specifically parawise denied the allegations of the OP/Management as false and misleading.

4. Whereas the contra pleaded case of the OP/Management with categorical denials is that the present reference is unmaintainable in law and facts both, as the workman had fraudulently got his employment in M/s. CCL. The Management issued workman Jaipal Singh S/o Shri Sukhdeo Singh the charge sheet dt. 15/17.10.1997 for fraudulently securing employment as Trainee Cat. I in the CCL as per the appointment letter No. PD/MP/Apptt/LL/ 87-88/R-17 dt. 4.1.1996 under the Land Looser Scheme of

N.K. Area, CCL without approval of the Competent Authority, as son of the owner of the Land under Khat No. 2 Plot Nos. 367 and 539 at Vill: Tumand, P.S. Khelari, Dist: Ranch, acquired by the CCL for mining operation, but on enquiry, it was found that the workman was neither a son nor a nominee of the owner of the said land for his employment, rather against the aforesaid land the appointment was already given in the CCL to Sri Subodh Kumar Singh S/o Shri Pramod Singh as per the appointment letter No. PD/MP/Apptt/LL/87-88/750 dt. 11.02.1993. The workman Jaipal Singh submitted his reply dt. 24.10.1997. Thereafter, Sri A.S. Prasad and Sri U.K. Tripathi were appointed as the Enquiry Officer and the Presenting Officer respectively by the Management for holding the enquiry into the charge sheet against the workman. The Management's witnesses were examined in presence of the workman concerned in the enquiry, in which he was allowed by the Enquiry Officer to cross examine them, but the workman declined to do so. The Enquiry Officer gave him the full opportunity for his defence during the enquiry proceeding. Thus the domestic enquiry was conducted by the Enquiry Officer in accordance with the principle of natural justice. Consequently, the Enquiry Officer submitted his enquiry report based on the evidence and deposition of the witnesses as stated before him, concluding the charges levelled against the workman full established. After examining and finding the enquiry report proper, the Disciplinary Authority issued the 2nd Show Cause along with the copy of the enquiry report to the workman for his further defence. The workman submitted his reply to it. He had got employment falsely, producing false and fabricated documents. One due consideration of all the facts and finding not extenuating circumstances for the workman, the Disciplinary Authority came to conclusion that only the dismissal of the workman would meet the end of justice. The workman was dismissed for his gross misconduct; hence the dismissal order of the Management is legal and justified. The OP/Management has sought for permission to adduce fresh evidence to prove the misconduct, in case the domestic enquiry held unfair and improper.

The OP/Management in their simultaneous rejoinder has categorically denied the allegations of the workman as incorrect, misleading and irrelevant, further stating that the workman has failed to show how as prejudiced in the face of giving him full opportunity for his defence.

FINDING WITH REASONS

5. In the instant reference, after hearing both the parties at the preliminary issue over the fairness of the departmental enquiry, the Tribunal as per the order No. 43 dt. 17.12.2013 held the domestic enquiry as fair, proper and in accordance with the principle of natural justice. It resulted in hearing the final arguments of both the parties on merits for an adjudication.

The instant Industrial Dispute has been raised by workman Jaipal Singh himself who has been contesting the case all along filing his written statement and rejoinder under his signature. The plea of the workman as per his written argument irrespective of irrelevant facts is that he was appointed by Sri J.N. Singh, the G.M. (P&A) as per his appointment letter dt. 4.1.1996 after interview, but not against any land because no scheme for appointment against loss of land was prevalent in the year 1996. Further the workman has to contend that the reference of Land in his appointment letter was a mistake of management, for the rectification of which he had personally met the responsible Officer concerned, but the Management made out a false case against the workman prior to its rectification. But such pleas of the workman about his appointment not under the Land Looser Scheme and his personal meeting with a responsible Officer appear to be quite baseless, as these facts are unpleaded. Rather, the stance of the workman himself stands quite clear that admittedly he was appointed for Cat.-I under the Land Looser Scheme as evident from his claimed appointment letter dt. 4.1.1996 (Ext. W.1), though he admittedly had not any land for the employment.

Further contention of the workman is that he was admittedly appointed by the General Manager (P&A), H.Qr but his dismissal was done by the Project Officer of the Colliery lower in rank than the Appointing Authority, so it is illegal and void abinitio as held by the Hon'ble Supreme Court in the case of Delhi Transport Union Vs. B.B.L. Hajelay reported in SCLJ Vol. 10 at 110. Though the ruling has not been properly cited, it appears to be of the year 1972. It relates to the dismissal of a workman by the Subordinate authority as per the delegation of power by the Appointment Authority. But the workman concerned appointed before such delegation and his dismissal order was not approved u/s 33 [Sub 2(b)] of the Industrial Dispute 1947. The Sec. 33 of I.D. Act stipulates "Conditions of service etc, to remain unchanged under certain circumstances during pendency of proceeding". But the instant case is quite independent of any previous pendency of proceeding of any Industrial Dispute, as such the ruling being different from the factum of the Reference appears to be inapplicable to the case under adjudication.

6. On the other hands Mr. S. Prakash, Sr. Manager (Pers.) as the Representative for the OP/Management has submitted that the workman Jaipal Singh was appointed as Trainee Cat.-I as per his appointment letter No. 401/1996 dt. 4.1.1996 (Ext. W.1), it stipulates the termination of his services at any time without any notice if any information concerning his claim for his employment, relationship etc, found incorrect. But he got it as the son of the owner of the land concerned at Village: Tumang, Kerkatta, P.S. Khelari, Dist. Ranchi, under the Land Looser Scheme, and the workman himself has admitted in his statement before the Tribunal not to have possessed himself or any member of

his family any piece of the said land; as such his employment as per his appointment letter devoid of his relationship as the son of the Land Holder was false. Further it is submitted on behalf of the OP/Management that after due departmental enquiry into the charge sheet dt. 15/17.10.1997 (Ext. M.1) which was issued to the workman, the workman was found guilty of serious misconduct of fraudulently securing his employment under the Company. After due consideration of the workman's reply to the 2nd Show Cause Notice, the Disciplinary Authority, the Project Officer of Rajrappa Washery, who is inherently the Competent Authority as per order dt. 04.12.1998 (Ext. M.7) dismissed his services with immediate effect, which is entirely justified and legal; thus the workman is not entitled to any relief whatsoever.

7. On the perusal and due consideration of the materials available on the case record, I find that the workman *prima facie* appears to have fraudulently got his employment as per his appointment letter dt. 04.01.1996 under the Land Looser Scheme for the same lands under plots 367 and 539 of Khata No. 2 against which Sri Subodh Kumar, son-in-law of Arun Nath Sahdeo at Village Tumang/Karkatta, Bishrampur, Block Burmu, P. S. Khelari, Dist. Ranchi, was three years earlier genuinely appointed as the overseer (Civil) in Tech. & Sup. Gr. 'C' as per letter No. PD/MP/ Apptt./Land Looser/87 dt. 12.02.1993. In view of the grave nature of misconduct proved against the workman, his dismissal from the services of the company is quite proportionate to it.

In result, it is, in the terms of the reference, hereby responded and accordingly awarded that the dismissal of Shri Jay Pal Singh from service by the Management of M/s. CCL is absolutely proper, justified and legal. Hence, the workman is not at all entitled to any relief.

KISHORI RAM, Presiding Officer

नई दिल्ली, 6 जुलाई, 2015

का०आ० 1392.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बीसीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं० 2, धनबाद के पंचाट (संदर्भ संख्या 10/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26/06/2015 को प्राप्त हुआ था।

[सं० एल-20012/94/2013-आईआर (सीएम-1)]
एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 6th July, 2015

S.O. 1392.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 10/2014) of the Cent. Govt. Indus. Tribunal-cum- Labour Court No. 2, Dhanbad

as shown in the Annexure, in the industrial dispute between the management of M/s. BCCL and their workmen, received by the Central Government on 26/06/2015.

[No. L-20012/94/2013-IR(CM-I)]
M.K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD

PRESENT

Shri Kishori Ram

Presiding Officer

In the matter an of Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

REFERENCE No. 10 OF 2014

PARTIES : The Secretary,
Bihar Colliery Kamgar Union,
Jharapara, Hirapur, Dhanbad
Vs. The General Manager,
Lodna Area of M/s BCCL, Khas
Jeenagora, Dhanbad.
Ministry's Order No. L-20012/94/2013-IR(CM-I) dt. 17.02.2014

APPEARANCES:

On behalf of the workman/Union : None.

On behalf of the Management : Mr. U.N. Lal, Ld.
Advocate.

State : Jharkhand

Industry : Coal

Dated, Dhanbad, the 08th April, 2015.

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec. 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication *vide* their Order No. L-20012/94/2013-IR(CM-I) dt. 17.02.2014.

SCHEDULE

"Whether the action of the Management of Lodna Area of M/s BCCL in not regularizing Sri Santosh Kumar Bauri in the post of Sr. Attendance Clerk is fair and justified? To what relief the concerned workman is entitled to?"

2 Neither any Union Representative nor the workman Santosh Kumar Bauri appeared nor written statement with any documents filed on behalf of the workman. Mr. U. N. Lal, is the Ld. Advocate for the OP/Management present as usual.

On perusal the case record, it appears that the case has been pending since its registration for filing the written statement along with the documents of the workman, for which three registered notices dt. 22.04.2014, 03.09.2014 and 10.12.2014 were issued to the Secretary of the Union concerned on his address as noted in the Reference itself, but neither the Union Representative nor the workman could respond to any of the notices. The Union Representative and the workman by their gross negligent conducts appear to be quite reluctant to pursue the case for final adjudication. Under these circumstances, it appears to be no longer an Industrial Dispute. Hence the case is closed accordingly, and it is passed an order of "No Dispute Award."

KISHORI RAM, Presiding Officer

नई दिल्ली, 6 जुलाई, 2015

का०आ० 1393.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं० 2, धनबाद के पंचाट (संदर्भ संख्या 102/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26/06/2015 को प्राप्त हुआ था।

[सं० एल-20012/52/2012-आईआर (सीएम-1)]

एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 6th July, 2015

S.O. 1393.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 102/2013) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 2, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. BCCL and their workmen, received by the Central Government on 26/06/2015.

[No. L-20012/52/2012-IR(CM-I)]

M.K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD

PRESENT:

Shri Kishori Ram, Presiding Officer

In the matter an Industrial Dispute under Section 10(1) (d) of the I.D. Act, 1947.

REFERENCE No. 102 OF 2013.

PARTIES : The President,
Bihar Shramik Sangh,
Qr. No. A-32, A Block, PO: Bhuli,
Distt. Dhanbad

Vs.

The General Manager,
Sijua Area of M/s BCCL, PO: Sijua
Dhanbad.
Ministry's Order No. L-20012/52/2012-
IR(CM-I) dt. 05.03.2012

APPEARANCES:

On behalf of the workman/Union : None.

On behalf of the Management : Mr. D.K. Verma, Ld.
Advocate.

State : Jharkhand Industry : Coal

Dated, Dhanbad, the 28th April, 2015.

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec. 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication *vide* their Order No. L-20012/52/2012-IR(CM-I) dt. 05.03.2013.

SCHEDULE

"Whether Sh. Vishnu Deo Bhuia, son of Late Bali Bhuia is entitled for employment and other benefits as per provision of NCWA since his father was alive on the date of Award by the Hon'ble CGIT (Dhanbad) dated 06.04.2006, which was Notified in the Gazette of India's Notification on 15.05.2006? To what relief is the dependent of the deceased workman is entitled to?"

2 Neither Union Representative for the Bihar Sharmik Sangh, Bhuli, nor petitioner Vishnu Deo Bhuia appeared nor any written statement with any documents filed on his behalf despite several opportunities for it. Mr. D.K. Verma, the Ld. Advocate for the OP/Management is present.

On perusal the case record, I find that despite three Registered notices dt. 07.05.2013, 28.01.2014 and 14.03.2014 having been issued to the President of the Union on his address as noted the Reference itself for filing Written statement of the petitioner, the Union Representative or the workman failed to respond to any the notices. The Union Representative and the petitioner by their such conducts appear to be quite reluctant is pursuing the case for its finality.

Under these circumstances, it seems no longer an Industrial Dispute; hence the case is closed as No Industrial Dispute; and accordingly it is passed 'No Dispute Award'.

KISHORI RAM, Presiding Officer

नई दिल्ली, 6 जुलाई, 2015

का०आ० 1394.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आईएसओ के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं० 2, धनबाद के पंचाट (संदर्भ संख्या 01/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26/06/2015 को प्राप्त हुआ था।

[सं० एल-20012/59/2012-आई०आर० (सीएम-1)]

एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 6th July, 2015

S.O. 1394.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 01/2013) of the Cent. Govt. Indus. Tribunal-cum- Labour Court No. 2, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. ISO and their workmen, received by the Central Government on 26/06/2015.

[No. L-20012/59/2012-IR(CM-I)]

M.K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD

PRESENT:

Shri Kishori Ram, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D. Act, 1947.

REFERENCE NO. 01 OF 2013.

PARTIES : The Dilip Kumar Shah,
Bhartiya Khani Vidyapit Swayatsashi
Karamchari Sangh,
House No. 124, PO: Bhaga, Dhanbad.

Vs.

The Chief Executive/Manager
M/s International Security Organization,
171, Park Street, Kolkata-17.
Ministry's Order No. L-20012/59/2012-
IR(CM-I) dt. 26.12.2012

APPEARANCES:

On behalf of the workman/Union : Mr. S.N. Ghosh, Ld.
Advocate.

On behalf of the Management : None.

State : Jharkhand Industry : Coal

Dated, Dhanbad, the 08th April, 2015

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec. 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication *vide* their Order No. L-20012/59/2012-IR(CM-I) dt. 26.12.2012

SCHEDULE

"Whether the action of the Management of International Security Organization, Contractor in transferring Sri Anil Rakshit, Security Guard from Dhanbad to a far place (though he was engaged in contract job particularly for ISM, Dhanbad) is legal and justified? To what relief is the concerned workman entitled?"

2. Workman Anil Rakshit with Mr. S.N. Ghosh, Ld. Advocate for the workman present and files a written petition bearing their signatures for passing a needful order. But none appeared for the Management. Mr. Ghosh, the Ld. Advocate for the Union/workman submitted that the Reference is still pending for an afresh corrigendum over two points, as sought by the Union which are still awaiting from the Ministry; but meanwhile, the workman is not interested to proceed with the case voluntarily; as such the Union Representative Dilip Kumar Shah and the workman have expressed their desire to withdraw the case. An Industrial Dispute once referred by the Ministry of the Labour & Employment, Government of India, is not withdrawable. Hence in view of the aforesaid circumstances of reluctance of the Union Representative as well as that of the workman, it is no longer the Industrial Dispute. Therefore, it is closed as "No. I.D.", and accordingly an order is passed as No Dispute.

KISHORI RAM, Presiding Officer

नई दिल्ली, 6 जुलाई, 2015

का०आ० 1395.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं० 2, धनबाद के पंचाट (संदर्भ संख्या 01/2001) को प्रकाशित करती है जो केन्द्रीय सरकार को 26/06/2015 को प्राप्त हुआ था।

[सं० एल-20012/368/2000-आई आर (सी-1)]

एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 6th July, 2015

S.O. 1395.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 01/2001) of the Central Government Industrial Tribunal-Cum-Labour Court No. 2, Dhanbad as shown in the Annexure in the Industrial Dispute between the management of

M/s. BCCL and their workman, received by the Central Government on 26/06/2015.

[No. L-20012/368/2000-IR(C-I)]
M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2), AT DHANBAD

PRESENT:

Shri Kishori Ram, Presiding Officer

In the matter of an Industrial Dispute under Section
10(1)(d) of the I.D. Act., 1947

REFERENCE No. 01 OF 2001

PARTIES :

The Secretary,
Bihar Colliery Kamgar Union,
Jharnapara, Hirapur, Distt. Dhanbad.

Vs.

The General Manager,
Moonidih Area of M/s. BCCL,
P.O. Moonidih Distt: Dhanbad

Ministry's Order No. L-20012/368/
2000(C-I) dt. 20.12.2000

APPEARANCES:

On behalf of the Workman/ : Mr. K. Chakraborty,
Union Ld. Adv.

On behalf of the : Mr. D.K. Verma, Ld. Adv.
Management

State : Jharkhand Industry : Coal

Dated, Dhanbad, the 24th April, 2005

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec. 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication *vide* their Order No. L-20012/368/2000(C-I) dt. 20.12.2000

SCHEDULE

"Whether the action of the Management of M/s. BCCL in not making the payment of wages/ subsistence allowance to Shri Nagendra Jha Diesel Mechanic of Moonidih Coal Washery, Dhanbad for the period from 27.10.97 to 22.11.1998 is legal and justified? If not, to what relief is the workman entitled?"

2. Neither the Union Representative nor the workman Nagendra Jha appeared nor any witness on his behalf

produced. Mr. D.K. Verma Ld. Advocate for the OP/ Management is present as usual.

From perusal of the case record, it appears the case has been all along pending for the evidence of workman since 17.10.2006. Even on three Regd. Notices dt. 17.06.2014, 19.08.2014 and lastly 17.10.2014 issued to the Secretary, of the Union concerned on his addresses noted in the Reference itself for the evidence of the workman, neither the Union Representative nor the workman responded to any of the Notices. The Union Representative as well as the workman by their conducts appears to be quite reluctant in the pursuit of the reference case for its finality. The instant Reference relates to an issue over the non-payment of wages/subsistence allowance for certain period. Under these circumstances, it seems no longer an Industrial Dispute existent. Hence; it is accordingly passed an order of "No Dispute Award".

KISHORI RAM, Presiding Officer

नई दिल्ली, 6 जुलाई, 2015

का०आ० 1396.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ईसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं० 1, धनबाद के पंचाट (संदर्भ संख्या 47/1993) को प्रकाशित करती है जो केन्द्रीय सरकार को 26/06/2015 को प्राप्त हुआ था।

[सं० एल-20012/367/1991-आई आर (सी-1)]

एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 6th July, 2015

S.O. 1396.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 47/1993) of the Central Government Industrial Tribunal-Cum-Labour Court No. 1, Dhanbad as shown in the Annexure in the Industrial Dispute between the management of the M/s. ECL and their workman, received by the Central Government on 26/06/2015.

[No. L-20012/367/1991-IR(C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL No. 1, DHANBAD

In the matter of reference U/s. 10(1)(d) (2A) of I.D. Act.
1947

Reference: No. 47/1993

Employer in relation to the management of Kapasara
Area, M/s. ECL

AND

Their workmen

Present:

Sri R.K. Saran, Presiding Officer

Appearances:

For the Employers : Sri D.K. Verma, Advocate
 For the workman : None
 State : Jharkhand
 Industry : Coal
 Dated: 16.4.2015

AWARD

By Order No. L-20012/367/1991 IR (C-I) dated 06/01/1993, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of M/s. E.C. Ltd, Kapasara Area in denying promotion to Shri D.C. Agarwal, Special Grade Clerk in Technical and Supervisory Grade A w.e.f. 24/07/1987 is justified? If not to what relief the workman is entitled?"

2. After receipt of the reference, both parties are noticed. But none appears on behalf of the workman inspite of Regd. Notice. Case remain pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 6 जुलाई, 2015

का०आ० 1397.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय न. 1, धनबाद के पंचाट (संदर्भ सं० 40/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26/06/2015 को प्राप्त हुआ था।

[सं० एल-20012/47/2009-आई०आर० (सीएम-1)]

एम०के० सिंह, अनुभाग अधिकारी

New Delhi, the 6th July, 2015

S.O. 1397.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 40/2009) of the Cent.

Govt. Indus. Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the Industrial Dispute between the management of M/s. BCCL and their workmen, received by the Central Government on 26.06.2015.

[No. L-20012/47/2009-IR(CM-I)]

M.K. SINGH, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
 INDUSTRIAL TRIBUNAL (NO. 1), DHANBAD**

In the matter of reference U/S 10(1) (d) (2A) of
 I.D. Act. 1947

Reference No. 40 of 2009

Employer in relation to the management of Koyla
 Bhawan, of M/s. BCCL

AND

Their workman

Present:

Sri R.K. Saran, Presiding Officer

Appearances:

For the Employer : Sri D.K. Verma, Advocate

For the Workman : Sri K.N. Singh, Rep.

State : Jharkhand

Industry : Coal

Dated 13/5/2015

AWARD

By order No. L-20012/47/2009 IR-(CM-I), dated 09/07/2009 the Central Govt. in the Ministry of Labour has, in exercise of powers conferred by clause (d) of Sub-Section (1) and Sub-Section (2A) of Section 10 of the Industrial Disputes Act. 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of Welfare Department of M/s BCCL, Koyla Bhawan in not providing employment to dependant of Shri Prahlad Mishra, Office Superintendent, under the provision of NCWA clause 9.4.0 is justified and legal? (ii) To what relief is the dependant of Shri Prahlad Misshra entitled?"

2. The case is received from the Ministry of Labour on 17.07.2009. After receipt of reference, both parties are noticed, the Sponsoring Union for the workman files their written statement on 30.09.2009. After long delay the management also files written statement-cum-rejoinder on 02.04.2012. Management's document marked as M-1 to M-6. One witness examined from each side.

3. The Short point to be decided in the case as to whether the dependant son of the disabled workman Prahalad Mishra is to get job in place of his father.

4. The workman submitted that as he was disabled that was almost blind his dependant son is to get a job.

5. On the other hand the management submitted that the workman was retired after completion of his job, therefore there is no provision in NCWA to give job to the dependant son after retirement.

6. The workman in his evidence has clearly stated that, he retired after attaining 60 years age and he further stated, that he has already received all his retirement benefits. Therefore giving his dependant son in job through backdoor is not at all warranted.

7. Considering the facts and circumstances of this case, I hold that the action of the management of Welfare Department of M/s BCCL, Koyla Bhawan in not providing employment to dependant of Shri Prahlad Mishra, Office Superintendent, under the provision of NCWA clause 9.4.0 is justified, Hence his claim is refused, and he is not entitled to get any relief.

This is my award.

R.K. SARAN, Presiding Officer

नई दिल्ली, 6 जुलाई, 2015

का०आ० 1398.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय न. 1, धनबाद के पंचाट (संदर्भ सं० 5/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26/06/2015 को प्राप्त हुआ था।

[सं० एल-20012/151/2014-आईआर (सी-1)]

एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 6th July, 2015

S.O. 1398.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 5/2015) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the Industrial Dispute between the management of M/s. BCCL and their workmen, received by the Central Government on 26.06.2015.

[No. L-20012/151/2014-IR(C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 1), DHANBAD

In the matter of reference U/S 10(1) (d) (2A) of
I.D. Act. 1947

Ref. No. 05 of 2015.

Employer in relation to the management of W.W. Zone of
M/s. BCCL,

AND

Their workmen.

Present:

Sri Ranjan Kumar Saran, Presiding Officer

Appearances:

For the Employers : None

For the workman : Shri S.S. De, Rep.

State : Jharkhand

Industry : Coal

Dated 05/05/2015

AWARD

By Order No. L-20012/151/2014-IR (C-1), dated 12/02/2015, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Whether the action of management of Moonidih Coal Washery under W.W. Zone of M/s. B.C.C. Ltd. in not regularizing Sri Ramesh Prasad in Clerical Grade is fair and justified, To what relief the concerned workmen is entitled?"

2. This case is received from the Ministry on 19.02.2015. After receipt of the reference, the Sponsoring Union for the workman is appears and files a petition, submits their in that the management is fulfill the demand of the workman and regularized him, Now disputes have been resolved in the meantime, Hence No Dispute Award is passed.

R. K. SARAN, Presiding Officer

नई दिल्ली, 6 जुलाई, 2015

का०आ० 1399.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी०सी०सी०एल० के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं० 1, धनबाद के पंचाट (संदर्भ संख्या 41/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 26/06/2015 को प्राप्त हुआ था।

[सं० एल-20012/25/2014-आईआर (सी-1)]

एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 6th July, 2015

S.O. 1399.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 41/2014) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, No. 1, Dhanbad as shown in the Annexure in the industrial dispute between the management of M/s. BCCL and their workmen, received by the Central Government on 26/06/2015.

[No. L-20012/25/2014-IR(C-I)]

M.K. SINGH, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1, DHANBAD**

In the matter of reference U/S 10 (1) (d) (2A) of
I.D. Act, 1947

Reference No. 41 of 2014

Employer in relation to the management of Lodna Area
of M/s. BCCL,

AND

Their workmen

Present:

Sri Ranjan Kumar Saran, Presiding Officer

Appearances:

For the Employers : Shri U.N. Lall, Advocate

For the workman : Shri S.C. Gour Rep.

State : Jharkhand Industry : Coal

Dated 05/05/2015

AWARD

By Order No. L-20012/25/2014-IR (C-I), dated 22/04/2014, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of North Tisra Colliery, Lodna Area of M/s. B.C.C. Ltd. is not regularizing Sri Mahendra Kumar Deo, Elec. Helper to the post of office Asstt. And typist in clerical Grade II is fair and justified, to what relief the concerned workmen is entitled?"

2. This case is received from the Ministry on 05.05.2014. After receipt of the reference, parties are noticed, though they took steps for certain dates, the Sponsoring Union for the workman is appears and files a petition, submits that the management is fulfill the demand and regularized him. Now disputes between parties have been resolved in the meantime, hence no dispute award is passed.

R.K. SARAN, Presiding Officer

नई दिल्ली, 6 जुलाई, 2015

कांआ 1400.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बी०सी०सी०एल० के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायलय, नं० 1, धनबाद के पंचाट (संदर्भ संख्या 26/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 26/06/2015 को प्राप्त हुआ था।

[सं० एल-20012/239/2003-आईआर (सी-1)]

एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 6th July, 2015

S.O. 1400.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 26/2004 of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Dhanbad as shown in the Annexure in the industrial dispute between the management of M/s. BCCL and their workman, received by the Central Government on 26/06/2015.

[No. L-20012/239/2003-IR(C-I)]

M. K. SINGH, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO.1, DHANBAD**

In the matter of reference U/S 10 (1) (d) (2A) of
I.D. Act, 1947

Reference No. 26 of 2004

Employer in relation to the management of Kusunda Area
M/s. BCCL

AND

Their workmen

Present:

Sri Ranjan Kumar Saran, Presiding Officer

Appearances

For the Employers : Sri U.N. Lall, Advocate

For the workman : Sri D. Mukherjee, Rep

State : Jharkhand Industry : Coal

Dated 11/5/2015

AWARD

By Order No. L-20012/239/2003-IR (C-I), dated 12/03/2004, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of Godhur Colliery under Kusunda Area of M/s. BCCL in denying employment to Sri Hari Surendra Nonia claiming to be dependant son of Late Panwa Kamin is fair and justified? If not, to what relief is Sri Hari Surendra Nonia, the said dependant of Late Panwa Kamin entitled?"

2. This case is received from the Ministry Labour & Employment on 19.04.2004. After receipt of reference, both parties are noticed. The Sponsoring Union files their written statement on 27.07.2004. The management files their written statement on 24.03.2005. One witness each has been examined from both side. Document marked as W-1 to W-3 by the workman. The management is also files four documents.

3. The short point to be decided in this reference is that Sri Hari Surendra Nonia is dependant or not of Late Panwa Kamin.

4. The applicant raised the dispute, that he is the dependant son of late Panwa Kamin and as such he is to be engaged in place of her deceased mother as per the provision of the NCWA.

5. On the other hand the management submitted that the applicant is not the son of deceased workman Late Panwa Kamin and as such not entitled for job under it.

6. It is submitted by the management for getting death benefits including job, the applicant approached the Hon'ble High Court. The Hon'ble Court ordered to grant death monetary benefit to the legal heir and to decide, whether the applicant is entitled to job and to give reasoned order.

7. The management after enquiry found that the applicant not the son of the deceased workman but the son of the husband's brother of the deceased workman.

8. The applicant has not submitted any authentic documents or photo I.D. Card to prove his parentage nor he produced such documents either at the enquiry or before this Tribunal.

9. Moreover the workman files document marked as W-1 to W-3. In W-2 there is letter No. and date is not mentioned nor any signature and seal of office. Therefore this Tribunal, unable to satisfy himself that the applicant is the son of he deceased workman.

10. Considering the facts and circumstance of this case, I hold that the action of the management of Godhur Colliery under Kusunda Area of M/S BCCL in denying employment to Sri Hari Surendra Nonia claiming to be dependant son of Late Panwa Kamin is fair. Hence he is not entitled for job, claim is refused.

This is my award.

R.K. SARAN, Presiding Officer

नई दिल्ली, 6 जुलाई, 2015

का०आ० 1401.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बी०सी०सी०एल० के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायलय, नं० 1, धनबाद के पंचाट (संदर्भ संख्या 75/1994) को प्रकाशित करती है जो केन्द्रीय सरकार को 26/06/2015 को प्राप्त हुआ था।

[सं० एल-20012/79/1993-आईआर (सी-I)]

एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 6th July, 2015

S.O. 1401.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 75/1994) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, No. 1, Dhanbad as shown in the Annexure in the industrial dispute between the management of M/s. BCCL and their workmen, received by the Central Government on 26/06/2015.

[No. L-20012/79/1993-IR(C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act, 1947.

Reference No. 75/1994

Employer in relation to the management of Moonidih Project of M/s. BCCL,
AND
Their workmen.

Present:

Sri R. K. Saran, Presiding Officer

Appearances:

For the Employers : Shri D.K. Verma, Advocate

For the workman : None

State : Jharkhand

Industry-Coal

Dated 12/05/2015

AWARD

By Order No. L-20012/79/1993-IR (C-I), dated 16/03/1994, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of

sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of Moonidih Project under Moonidih Area of BCCL, P.O. Moonidih, Dist. Dhanbad in dismissing Shri Anand Gope with effect from 24/08/1990 from the service of M/S. BCCL is justified? If not to what relief the workman is entitled and from which date?"

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remain pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R.K. SARAN, Presiding Officer

नई दिल्ली, 6 जुलाई, 2015

का०आ० 1402.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बी०सी०सी०एल० के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं० 1, धनबाद के पंचाट (संदर्भ संख्या 114/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 26/06/2015 को प्राप्त हुआ था।

[सं० एल-20012/173/2003-आईआर (सी-1)]
एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 6th July, 2015

S.O. 1402.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 114/2003) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure in the industrial dispute between the management of M/s. BCCL and their workmen, received by the Central Government on 26/06/2015.

[No. L-20012/173/2003-IR(C-I)]

M.K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/S 10(1) (d) (2A) of
I.D. Act. 1947.

Reference No. 114 of 2003

Employer in relation to the management of P.B. Area
of M/s. BCCL

AND

Their workmen

Present:

Sri R. K. Saran, Presiding Officer

Appearances:

For the Employers : Sri D.K. Verma, Advocate

For the workman : Sri U.P. Sinha, Advocate.

State : Jharkhand

Industry-Coal

Dated 12/5/2015

AWARD

By Order No. L-20012/173/2003-IR (C-I), dated 10/11/2003, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Whether the demand of the BMS from the management of P.B. Area of M/S. BCCL for regularizing S/Shri Nand Kishore Pandey and 26 others (as per list) in the service of the company is justified? If so, to what relief are the concerned workmen entitled and from what date?"

Annexure

List of workmen

- | | |
|--------------------------|--------------------------|
| 1. Nand Kishore Pandey | 2. Rajesh Kumar |
| 3. Sahadeep Yadav | 4. Bindeshwari Pd. Verma |
| 5. Kishore Ram | 6. Kamakhya Pandit |
| 7. Bijendra Kumar | 8. Jaykumar pandit |
| 9. Dhananjay Kumar | 10. Sanjay Prasad |
| 11. Arvind Kumar | 12. Shambhu Kr. Sinha |
| 13. Ajay Kumar Sinha | 14. Rajendra Prasad |
| 15. Ashok Prasad | 16. Ram Pukar Prasad |
| 17. Mahabir Yadav | 18. Daya Raaut |
| 19. Uday Ram | 20. Satyadeo Prasad |
| 21. Ranvijay Kr. Singh | 22. Ramkrit Das |
| 23. Bhishm Kumar | 24. Rajesh Ram |
| 25. Dharmendra Kr. Singh | 26. Atul Kr. Singh |
| 27. Sahde Yadav | |

2. The case is received from the Ministry of Labour on 24.11.2003. After receipt of the reference, both parties are noticed, But after long delay the Sponsoring Union files their written statement on 24.06.2006. After long delay the management also files written statement-cum-rejoinder on 28.01.2009. Both side adduce one witness each on their behalf. Workman's document marked as W-1 & W-2 Series.

3. The short point to be decided in this reference, as to whether the applicants Sri Nand Kishore Pandey and 26 others are to be regularized under the management of BCCL or not.

4. It is the case of the workmen that they were engaged by co-operative society and were engaged in the underground of the mines.

5. On the other hand the management submitted that the workman concerned were never engaged by them much less at under ground. It is submitted that some persons are trying to enter into job through back door.

6. But in this case the concerned workmen except filing some chits, unable to file any authentic documents, that they were either engaged or worked under the management. The chits filed have not been proved that the concerned workmen worked under the management.

7. In cross examination of WW-1 the concerned workmen himself submits that "I can not file any documents to show that I was a member of Koylanchal servicing co-operative society. The facts stated in para-2 is correct. I can not produce any appointment letter give to me by the co-operative society. No. ID card was given to me. BCCL has also not given any appointment letter nor any pay slip".

8. Without any authentic document and basis, this Tribunal is unable to pass order of regularization, specially when the Tribunal is unable to satisfy himself that the workman were actually working or not. Therefore the claim of the workman is not accepted.

9. Considering the facts and circumstances of this case, I hold that the demand of the BMS from the management of P.B. Area of M/S. BCCL for regularizing S/Shri Nand Kishore Pandey and 26 others (as per list) in the service of the company is not justified. Hence they are not entitled to get any relief.

This is my award.

R.K. SARAN, Presiding Officer

नई दिल्ली, 7 जुलाई, 2015

का०आ० 1403.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल बैंक आफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं. 2, मुंबई के पंचाट (के०स०औ० अ० 50/2006) को प्रकाशित करती है जो केन्द्रीय सरकार को 07/07/2015 को प्राप्त हुआ था।

[सं० एल-12011/50/2006-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 7th July, 2015

S.O. 1403.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 50/2006) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 2, Mumbai as shown in the Annexure in the industrial dispute between the management of Central Bank of India, and their workmen, received by the Central Government on 07/07/2015.

[No.L-12011/50/2006-IR(B-II)]
RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL NO.2, MUMBAI

PRESENT

K.B. KATAKE, Presiding Officer

REFERENCE NO. CGIT-2/50 of 2006

EMPLOYERS IN RELATION TO THE MANAGEMENT
OF CENTRAL BANK OF INDIA

The Assistant Manager
Central Bank of India
Mumbai Main Office
M.G Road
Mumbai- 400023.

AND

THEIR WORKMEN

The National General Secretary
All India Central Bank Bahujan Samaj
Karmachari Union
Central Bank of India
Mumbai Main Office, Ground floor
Fort,
Mumbai 400023.

APPEARANCES:

For the Employer : MR. L.L. D'Souza
Representative

For the Workmen : Mr. J.H. Sawant,
Advocate

Mumbai, dated the 9th April, 2015.

AWARD PART-II

The Government of India, Ministry of Labour & Employment by its Order No. L-12011/50/2006-IR (B-II), dated 04.09.2006 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication:

"Whether the action of the management of Central Bank of India, Mumbai, Main Office, Mumbai in Imposing the punishment of dismissal from service on Shri Chandrakant Koli, Clerk is legal and justified? If not, what relief Shri Chandrakant Koli is entitled to?"

2. The second party workman was the employee of the first party Bank. It was alleged that the second party workman has stolen Bankers cheque leaves, prepared false vouchers, forged signatures in seven transactions and committed fraud to the extent of Rs. 4,66,000/- For the said

fraud and misappropriation management lodged Police complaint. Police arrested the workman and filed charge-sheet before Metropolitan Magistrate. The workman requested the management to stay the domestic inquiry till decision of the criminal case. However, management did not wait and conducted the domestic inquiry against the workman. He was held guilty and the disciplinary authority has terminated the services of the workman. The workman raised industrial dispute. As conciliation failed, on the basis of report of ALC @ the Central Labour Ministry sent the reference to this Tribunal. In Award Part-I the inquiry was held fair and proper and the findings of the Inquiry Officer are declared not perverse and the parties were directed to argue or lead evidence on the point of quantum of punishment.

3. In this Part-II Award following are the remaining issues for my determination. I record my findings thereon for the reasons to follow:

Sr. No.	Issues	Findings
3.	Is punishment adequate?	Yes.
4.	What order?	As per order below.

REASONS

Issue no. 3:

4. On the point of punishment, it was submitted on behalf of the second party workman that, the Inquiry Officer did not give any weightage to the fact that Court of Metropolitan Magistrate has acquitted him of all the charges. The point was also reiterated that the management did not wait and initiated inquiry before the decision of the Criminal Court. The Criminal Court has examined the evidence on record and acquitted him.

5. In this respect it was already discussed in Part-I award that, criminal trial and domestic inquiry are two different actions and can be taken simultaneously. The standard of proof in criminal case is very high and the charges are required to be proved beyond all reasonable doubts whereas in the departmental inquiry, mere preponderance of probability suffices the purpose. Therefore, the said fact need not be taken into account specially while considering the point of punishment. In this respect. Id. adv. for the first party cited Apex Court ruling in Ajit Kumar Nag V/s. General Manager, Indian Oil Corporation Ltd. & Ors. AIR 2005 SC 4217 wherein the Hon'ble Apex Court observed that:

"Acquittal by criminal court will not preclude employer from holding departmental proceedings—Nor will *ipso facto* absolve employee from liability under departmental proceedings of employer company."

6. In short, the fact of acquittal by Criminal Court does not extend any help to the second party while considering the point of punishment.

7. In this respect the Id. adv. for the first party submitted that the workman was employee of a Bank and high degree of honesty and integrity is expected from the employees of the Bank. In support of his argument Id. adv. cited Apex Court ruling in Union of India V/s. Bihari Lal Sidhana 1997 (3) LLM 73. In that case the Hon'ble Apex Court in respect of reinstatement of Govt. Servant, accused of defalcation of public money observed that,

"Reinstatement would be a charter for him to indulge with impunity in misappropriation of public money."

8. The Id. adv. further submitted that when the employee is found guilty and the employer has lost confidence such an employee cannot be continued in the service of the establishment. In support of his argument Id. adv. cited Apex Court ruling in U.P. State Road Corporation V/s. Mohan Lal Gupta Ors. 2000 III CLR 407 wherein Apex Court on the point observed that:

"The employee has been found guilty of misappropriation and in such an event if the appellant Corporation loses its confidence vis-a-vis the employee, it will be neither proper nor fair on the part of the Court to substitute the finding and confidence of the employer with that of its own in allowing the reinstatement."

9. In this respect the Id. Adv. for the second party has submitted that, there is no previous record of misconduct, therefore, terminating the service for the first misconduct is shockingly disproportionate. In this respect the Id. Adv. for the first party submitted that, once misappropriation or fraud is proved, it is not necessary to consider the past record of the employee and court cannot substitute the penalty imposed by the disciplinary authority. In support of his argument the Id. Adv. cited Apex Court ruling in Janatha Bazaar V/s Secretary Sahakari Naukrara Sangha etc. 2000 III CLR 568 wherein Hon'ble Court on the point observed that:

"In case of proved misappropriation, there is no question of considering past record. It is the discretion of the employer to consider the same in appropriate cases."

In the same ruling the Hon'ble Court further observed that:

"Law is well-settled that once act of misappropriation is proved may be for a small or large amount, there is no question of showing uncalled for sympathy and reinstating the employee in service and as such impugned order passed by High Court and the award of Labour Court are set aside."

10. In the light of the facts discussed hereinabove and the Apex Court rulings, I come to the conclusion that, in

the case at hand when workman was found guilty of misappropriation, no uncalled sympathy can be shown to him. Accordingly, I hold that the order of termination cannot be said to be shockingly disproportionate to the proved misconduct. Accordingly I decide this issue No. 3 in the affirmative that punishment is adequate. Consequently I hold that the workman is not entitled to any relief prayed for. Thus I pass the following order.

ORDER

Reference stands dismissed with no order as to cost.
Date: 09.04.2015

K.B. KATAKE, Presiding Officer

नई दिल्ली, 7 जुलाई, 2015

कांआ 1404.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार केनरा बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय मुंबई के पंचाट (केसआ 11/2008) को प्रकाशित करती है जो केन्द्रीय सरकार को 07-07-2005 को प्राप्त हुआ था।

[सं एल-12012/106/2007-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 7th July, 2015

S.O. 1404.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 11/2008) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 2 Mumbai as shown in the Annexure in the industrial dispute between the management of Canara Bank and their workmen, received by the Central Government on 07-07-2015.

[No. L-12012/106/2007-IR(B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT:

K.B. KATAKE, Presiding Officer

REFERENCE NO. CGIT-2/11 of 2008

EMPLOYERS IN RELATION TO THE MANAGEMENT OF CANARA BANK

The Deputy General Manager
Canara Bank
Disciplinary Authority Disciplinary Action Cell
13th floor, Maker Tower 'E'
Cuffe Parade
Mumbai- 400005.

AND

Their Workman

Shri Chandrakant G. Kawle
Shivshankar Nagar
Salt Pan Road
Near Sonali Classes
Wadala
Mumbai - 400052.

APPEARANCES:

FOR THE EMPLOYER : MR. S.V. Alva,
Advocate

FOR THE WORKMEN : Mr. J.H. Sawant,
Advocate

Mumbai, dated the 12th December, 2014

AWARD PART-II

1. The Government of India, Ministry of Labour & Employment by its Order No. L-12012/106/2007-IR (B-II), dated 28.01.2008 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication:

"Whether the action of the management of Central Bank in imposing the punishment of Dismissal without Notice on Shri Chandrakant G. Kawle, sub-staff vide Order dated 29.01.2003 is legal, proper and proportionate to the gravity of misconduct allegedly committed by Shri Chandrakant G. Kawle? If not, to what relief Shri Chandrakant G. Kawle is entitled to and from which date and what other orders are necessary in the matter?"

2. The workman was serving as sub-staff in the first party Bank. He was chargesheeted for having stolen an amount of Rs.6 lakhs from the strong room of the Bank where he was employed. He kept an amount of Rs. 5,50,000/- in between the glass door and main gate of the Bank. It is alleged that Police recovered an amount of Rs. 45,000/- from the residence of the workman. The Inquiry Officer held the workman guilty and on his report the disciplinary authority dismissed the workman from service without notice. Criminal case was also lodged against the workman wherein the criminal court acquitted him. The workman raised the industrial dispute. In this reference in Part-I Award the inquiry was held fair and proper and findings of the Inquiry Officer were declared not perverse. Both the parties were directed to argue or lead evidence on the point of quantum of punishment. Both the parties have submitted their written arguments on the point of punishment. They are at Ex.-28 and 29.

3. In this Part-II Award following are the remaining issues for my determination. I record my findings thereon for the reasons to follow:

Sr. No.	Issues	Findings
3.	Whether the punishment of dismissal from service is shockingly disproportionate to the proved misconduct?	Partly affirmative
4.	Whether second party workman is entitled to be reinstated with back-wages?	No
5.	What order?	As per order below.

REASONS

Issues nos. 3 & 4.

4. In respect of the punishment it is submitted on behalf of the workman that the Metropolitan Magistrate has acquitted him and due consideration should be given to the judgement of Metropolitan Magistrate who has acquitted him. In this respect at the outset I would like to point out that law on the point is well settled by various Apex Court rulings that the yardstick and standard of proof in criminal case is different from the disciplinary proceeding. Criminal case is required to be proved beyond all reasonable doubts whereas in departmental inquiry, preponderance of probability suffices the purpose to prove the guilt. On the point detailed discussion is in the Part-I Award wherein two Apex Court ruling were also cited and relied upon. In short, the order of acquittal in a criminal trial is not at all helpful to the second party workman.

5. In this respect it was submitted on behalf on the first party that the second party was serving in a Bank who is custodian of public money and employee of the Bank is expected to be honest and trustworthy. Therefore it was submitted on behalf of the first party that, the punishment of dismissal without notice cannot be called shockingly disproportionate and the Tribunal should not interfere therein. In this respect I fully agree with the submission that no dishonest person should be employee in any Bank and when charges of theft and misappropriation are proved against the workman, question of his reinstatement in the service does not arise. At the same time the Id. Adv. for the second party invited my attention that the workman was serving as a sub staff. He is a very poor person. He also pointed out that though an amount of Rs. 6 lakhs was taken away, same night an amount of Rs. 5,50,000/- was kept back. The Id. Adv. for the second party also submitted that extreme poverty is the reason of such dishonesty. Therefore he prays that leniency may kindly be shown to the workman. He further submitted that workman has also admitted the guilt and most of the amount misappropriated or stolen was deposited in the Bank and the Bank has not sustained any monetary loss. These facts should be taken into account. I do appreciate the fact that workman has

come from a poor background and may be in dire need of money. However, as an employee of the Bank, his action cannot be justified. Therefore though he is not entitled to be reinstated looking into the social and financial poor background of the second party and the fact that he has admitted the guilt and most of the amount is already recovered instead of dismissing the second party from services, to meet the end of justice I think it proper that such a poor person should not be further deprived of financial benefits such as gratuity and other pensionary benefits. His act of theft/misappropriation occurred due to poverty and dire need of money. It will not be proper to drag the poor into more poverty especially when he has repented and admitted the guilt. Therefore on humanitarian ground instead of dismissal from service, I think it proper that, he should be made to retire compulsorily with all pensionary benefits so that he can get gratuity and all other pensionary benefits. Accordingly I decide this issue no. 3 partly in the affirmative and issue no. 4 in the negative. Thus I proceed to pass the following order:

ORDER

- Reference is partly allowed with no order as to cost.
- The punishment of dismissal from service is set aside and substituted by punishment of compulsory retirement with all pensionary benefits.

Date: 12.12.2014

K.B. KATAKE, Presiding Officer

नई दिल्ली, 7 जुलाई, 2014

कांआ 1405.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मुम्बई पत्तन न्यास के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय मुंबई के पंचाट (केस०आ०-3/2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 07/07/2015 को प्राप्त हुआ था।

[सं एल-39025/01/2010-आई आर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 7th July, 2015

S.O. 1405.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 3/2007) of the Central Government Industrial Tribunal-cum-Labour Court, No. 2, Mumbai as shown in the Annexure in the Industrial Dispute between the management of Mumbai Port Trust and their workmen, received by the Central Government on 07/07/2015.

[No. L-39025/01/2010-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 2, MUMBAI****PRESENT**

K.B. KATAKE, Presiding Officer

COMPLAINT NO. CGIT-2/3 OF 2007

(Arising out of Ref. CGIT-2/78 of 2003)

Transport & Dock Workers Union

P.D'mello Bhavan

P.D'mello Road

Carnac Bunder

Mumbai 400038.

...Complainant

V/s

Mumbai Port Trust

Port House,

S.V. Marg

Ballard Estate,

Mumbai 400038.

...Opponent

APPEARANCES:

FOR THE COMPLAINANT : No appearance.

FOR THE OPPONENT : Mr. Umesh Nabar,
Advocate

Mumbai, dated the 10th April, 2015

AWARD

This Complaint is filed under Section 33-A of Industrial Disputes Act, 1947 hereinafter for brevity referred as I.D. Act. According to the complainant the opposite parties has violated the provision of I.D. Act by issuing orders and thereby changing the service condition of the Tally Clerks concerned in the Ref. CGIT-2/78 of 2003 during the pendency of the reference. In the month of July 2004, the seniority ratings of 47 Tally Clerks have been altered by the Opposite party by placing the said Tally Clerks below junior persons and thereby adversely altering the seniority of the present Tally Clerks. Therefore complainant prays that the opposite party be restrained from altering the seniority ratings of the Tally Clerks either by way of promotion or by implementing the Rota System and to quash and set aside the altered promotion notice dt. 8/1/2007.

2. Opposite Party resisted the complaint by filing their written statement at Ex-5. The Opposite Party denied that they have contravened the provisions of Section 33 of the I.D. Act as alleged by the complainant union. They denied that the promotions were given wrongly to the employees. According to them the promotions were given in accordance with the Rules for Promotion and on the basis of merit-cum seniority of the eligible employees. Therefore they pray that the complaint be disposed of.

3. This Complaint was filed on 29/03/2007. Thereafter complainant filed application for interim relief (Ex-6). The

matter was kept for hearing on Ex-6. Since complainant remained absent, orders were passed on Exhibit-6 on 01.07.2010 for keeping the application with main complaint. Thereafter matter was adjourned for filing affidavit by the complainant. Even after number of adjournments complainant failed to lead their evidence and "No affidavit from complainant" order was passed on 01.03.2012. On 23/08/2012 opposite party filed purshis stating that they did not wish to lead oral evidence.

4. Meanwhile on 19.10.2011 Award was passed in Ref. CGIT-2/78 of 2003. Complaint was to be disposed of as complainant was not interested in pursuing the matter. The complaint remained pending inadvertently. Same was brought to my notice after carrying out physical verification of pending cases. Since the complainant is absent, the complaint deserves to be dismissed. Hence, I think it proper to dispose of the same. Thus the order:

ORDER

The complaint stands dismissed with no order as to cost.

Date: 10/04/2015

K.B. KATAKE, Presiding Officer

नई दिल्ली, 7 जुलाई, 2015

का०आ० 1406.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एमएसआरबी स्टार मेनटैन्स अजनशी प्राइवेट लि० के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय मुंबई के पंचाट (के०स०औ०आ०-41/2006) को प्रकाशित करती है जो केन्द्रीय सरकार को 07/07/2015 को प्राप्त हुआ था।

[सं० एल-31011/06/2006-आई आर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 7th July, 2015

S.O. 1406.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 41/2006) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Mumbai as shown in the Annexure in the Industrial Dispute between the management of M/s Areebee Star Maritime Agencies Pvt. Ltd. and their workmen, received by the Central Government on 07/07/2015.

[No. L-31011/06/2006-IR(B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 2, MUMBAI****PRESENT:**

K. B. KATAKE, Presiding Officer

REFERENCE NO. CGIT-2/41 OF 2006

Employers in relation to the Management of

1. Areabee Star Maritime Agencies Pvt. Ltd.

2. Zim Integrated Shipping Services (I) Pvt. Ltd.

The Director
M/s. Arebee Star Maritime Agencies Pvt. Ltd.
Raheja Centre Point, 3rd floor
294, CST Road,
Near Mumbai University,
Santacruz (E),
Mumbai-400 098.

M/s. Zim Integrated Shipping Services (I) Pvt. Ltd.
Raheja Centre Point, 3rd Floor
294, CST Road,
Near Mumbai University,
Santacruz (E),
Mumbai-400 098.

AND

THEIR WORKMEN

The Secretary
Transport and Dock Worker's Union
P.D'mello Bhavan
Carnac Bunder
Mumbai-400 038.

APPEARANCES:

FOR THE EMPLOYERS : Mr. S.D. Rege, Advocate.

FOR THE UNION : Mr. A.M. Koyande,
Advocate.

Mumbai, dated the 9th April, 2015.

AWARD

The Government of India, Ministry of Labour & Employment by its Order No. L-31011/6/2006-IR (B-II), dated 29.06.2006 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication:

"Whether the action of the management of M/s. Areabee Star Maritime Agencies Pvt. Ltd., Mumbai in terminating the services of Shri Ramesh Macwan w.e.f. 07.12.2003 is justified? If not, what relief the workmen, Shri Ramesh Macwan is entitled to?"

2. After receipt of the reference, both parties were served with notice. In response to the notice second party union filed its Statement of claim at Ex-7. First party resisted the statement of claim of the union by filing written statement at Ex-8. Thereafter by Ex-18, first party management sought amendment in the written statement and consequent to that union also amended their statement of claim by impleading M/s. Zim integrated Shipping Services (I) Pvt.

Ltd. as a party to this reference. Issues were again framed at Ex-26 after amendment in Statement of claim and Written Statement. The matter was fixed for hearing on 18/05/2015.

3. Today both parties remained present and by Application Ex-28 requested to take the matter on today's board. Orders were passed on Ex-28 allowing the application. Both parties filed joined purshis at Ex-29 stating that the reference may be disposed of as the matter is settled and they do not want to pursue the reference further. Hence the order:

ORDER

Referene stands disposed of as settled and withdrawn.
Date: 09.04.2015

K.B. KATAKE, Presiding Officer

नई दिल्ली, 7 जुलाई, 2015

का०आ० 1407.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मुम्बई पत्तन न्यास के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय मुंबई के पंचाट (के०स०औ०आ०-1/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 07/07/2015 को प्राप्त हुआ था।

[सं० एल-39025/01/2010-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 7th July, 2015

S.O. 1407.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 1/2015) of the Central Government Industrial Tribunal-cum-Labour Court, No. 2, Mumbai as shown in the Annexure in the Industrial Dispute between the management of Mumbai Port Trust and their workmen, received by the Central Government on 07-07-2015.

[No. L-39025/01/2010-IR(B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO.2, MUMBAI**

PRESENT:

K.B. KATAKE, Presiding Officer

COMPLAINT NO. CGIT-2/1 OF 2015

(Arising out of Ref. CGIT-2/13 of 2015)

The General Secretary
MbPT General Workers Union
Kavarana Building, 1st floor
26/4, P.D'mello Road
Wadi Bunder, Masjid(E)
Mumbai 400 009

...Complainant

V/s

The Chairman
Mumbai Port Trust
Port House, 2nd floor, S.V. Marg
Ballard Estate, Mumbai-400 001.

Shri Ravi Parmar, IAS, Chairman
Mumbai Port Trust
Port House, 2nd floor, S.V. Marg
Ballard Estate, Mumbai-400 001.

Shri Nitin Borvankar, Chief Mechanical Engineer
Mumbai Port Trust
Mazgaon,
Mumbai-400 010

...Opponents

APPEARANCES:

FOR THE COMPLAINANT : Mr. V. Narayanan,
Mr. V.S. Naik,
Representatives.

FOR THE OPPONENTS : Mr. Umesh Nabar,
Advocate.

Mumbai, dated the 6th April, 2015.

AWARD

This Complaint is filed under Section 33-A of Industrial Disputes Act, 1947 hereinafter for brevity referred as I.D. Act. According to the complainant the opposite parties has violated the provision of I.D. Act by issuing orders and thereby changing the service condition of Shri Ajay Appa Kadam and Shri Genubhau Mahadeo Auti (concerned workmen in Ref. CGIT-2/13 of 2015) during the pendency of the conciliation proceedings. The Opposite parties on 5/3/2015 by a transfer letter indicating demotion from Wiremen to Mazdoor directed both the above workmen to report at Butcher Island from their earlier posting *i.e.* Pir Pau. Therefore complainant prays to direct the MbPT management (opposite parties) to restore their posting as Wiremen in the OPL Pirpau as per their promotion and posting no. BI/DPC/800 dt. 27.12.2013.

2. By application dt. 25/03/2015 (Ex-7) complainant requested to take matter on board of 25/03/2015. After passing orders on Ex-7, matter was taken on board and since opponents were absent, matter was adjourned to 27/03/2015 with notice to Opponents, matter was again adjourned to 6/4/2015. On 6/4/2015, Opponent filed application (Ex-12) to dispose of the complaint as the relieving orders dt. 5/3/2015 is withdrawn, without prejudice to their rights and contentions in Ref. CGIT-2/13 of 2015. Complainant endorsed their say on Ex-12. Orders passed on Ex-1 as per Ex-12. In the circumstances complaint deserves to be disposed of. Thus the order:

ORDER

The complaint stands dismissed with no order as to cost.

Date: 06/04/2015 K.B. KATAKE, Presiding Officer

नई दिल्ली, 7 जुलाई, 2015

का०आ० 1408.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ महाराष्ट्रा के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, मुंबई के पंचाट (के० स० औ० अ०- 9/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 07.07.2015 को प्राप्त हुआ था।

[सं० एल-12011/82/2013-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi the 7th July, 2015

S.O. 1408.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 9/2014) of the Central Government Industrial Tribunal-cum-Labour Court, No. 2, Mumbai as shown in the Annexure in the industrial dispute between the management of Bank of Maharashtra and their workmen, received by the Central Government on 07/07/2015.

[No. L-12011/82/2013-IR(B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO.2, MUMBAI**

PRESENT

K.B. KATAKE,
Presiding Officer

REFERENCE NO. CGIT-2/9 OF 2014

**EMPLOYERS IN RELATION TO THE MANAGEMENT
OF BANK OF MAHARASHTRA**

The Dy. General Manager
Bank of Maharashtra
Pune City Region Yashomangal
F.C. Road
Pune.

AND**THEIR WORKMAN.**

The General Secretary
Bank of Maharashtra Karmachari Sangh
185, Shaniwar Peth
Pune-411 030.

APPEARANCES:

For the Employer : No appearance
For the Union/Workman : No appearance

Mumbai, dated the 20th March, 2015.

AWARD

The Government of India, Ministry of Labour & Employment by its Order No. L-12011/82/2013-IR (B-II), dated 07.02.2014 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication:

"Whether the action of the management of Bank of Maharashtra, Dehugaon branch by not filling the vacancy of Head Cashier since December 2006 and depriving the eligible person for getting functional allowance is justified? What relief the workman is entitled to?"

2. After receipt of the reference, notices were issued to both the parties. Notices were served on Union *vide* Ex-3 & again *vide* Ex-5 Till date, neither second party union nor concerned workman appeared in the proceeding or filed their statement of claim. Since nobody appeared on behalf of the union and filed statement of claim, it seems they are not interested in pursuing the matter further. Without statement of claim award cannot be passed on merits. Therefore I think it proper to dismiss the reference for want of prosecution. Thus I pass the following order:

ORDER

Reference stands dismissed for want of prosecution.
No order as to cost.

Dated: 20.03.2015

K.B. KATAKE, Presiding Officer

नई दिल्ली, 7 जुलाई, 2015

कांआ 1409.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, धनबाद के पंचाट (संदर्भ संख्या 36/2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 07.07.2015 को प्राप्त हुआ था।

[सं एल-12012/125/2006-आई आर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 7th July, 2015

S.O. 1409.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government

hereby publishes the Award (Ref. 36/2007) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of Bank of India and their workmen, received by the Central Government on 7-7-2015.

[No. L-12012/125/2006-IR(B-II)]

RAVIKUMAR, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD**

In the matter of reference U/S 10(1)(d)(2A) of I.D. Act, 1947

Reference No. 36/2007

Employer in relation to the management of Bank of India, Hazaribagh

And

Their workmen.

Present: Sri R.K. Saran, Presiding Officer.

Appearances:

For the Employers : Shri D.K. Verma, Advocate
For the workman : None
State: Jharkhand : Industry-Banking
Dated : 12/6/2015

AWARD

By order No. L-12012/125/2006 IR (B-II) dated 06-07-2007, the central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of Bank of India, Nawada Branch (Hazaribagh District) to terminate Shri Subhash Kumar Lal Badli Sub Staff from the service of the Bank without adhering to Bank Rule governing the service condition of Badli Sub-Staff is legal and justified? If not what relief the workman is entitled to?"

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Case remain pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R.K. SARAN, Presiding Officer